

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA-9621 of 2018 (O&M)
Date of decision: 16.03.2020

Krishna Devi

... Appellant

versus

Niranjan Lal & Ors.

... Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Sanjay Vashisth, Advocate,
for the appellant.

ARUN MONGA, J.

1. Plaintiff is in regular second appeal before this Court against concurrent findings recorded by both the Courts below. Plaintiff's suit seeking declaration that suit property is her personal and private has been dismissed by the trial Court with costs vide judgment and decree dated 20.10.2015, *inter alia*, on the ground of *resjudicata*. First appeal has also been dismissed by the Appellate Court vide judgment and decree dated 10.07.2018.

2. The facts of the case in nutshell are that plaintiff asserted that suit property measuring 12 *bighas* and 1 *biswa* was owned and possessed by Late Ram Dass, ancestor of the parties to the suit. A private temple was constructed thereupon by their ancestor. Defendants No.1 to 7 taking the benefit of wrong revenue entries claimed themselves to be owners of the suit property and wanted to interfere in the peaceful possession of the plaintiff and defendants No.8 to 52. A declaration was also sought that earlier judgments and decrees dated 26.08.2003, 07.01.2006 and 15.10.2009 passed on the basis of wrong revenue entries are illegal and not binding on the rights of the plaintiff and

defendants No.8 to 52.

3. Defendant No.7 contested the suit on the ground that temple was, in fact, got constructed by inhabitants of the locality. No money was contributed by Ramdass, the said ancestor of plaintiff. Remaining property is owned and possessed by Murti Mahadev established in the temple. The property is currently managed by a Committee. Plaintiff and defendants No.8 to 52 thus have no right over the suit property. In any case, judgments and decrees passed in earlier round of litigation are binding upon the parties.

4. On the basis of rival pleadings, issues were framed. The parties adduced their respective oral and documentary evidence in support of pleadings to discharge their respective onus as per the issues.

5. After analyzing the evidence produced by the parties, the trial Court vide judgment and decree dated 20.10.2015 apart from other adverse findings against plaintiff held that the suit is hit by *resjudicata* and dismissed the suit. The plaintiff unsuccessfully challenged the said findings vide the first Appellate Court judgment and decree dated 10.07.2018. Hence, the instant regular second appeal.

7. I have heard learned counsel for the appellant and have perused the judgments passed by the Courts below vis-a-vis the grounds of appeal taken before this Court.

8. Apparently, both the Courts below held that issue of ownership of property in dispute had already been settled in earlier round of litigation. Plaintiff cannot be permitted to agitate the same again and again. Same is discernible from paras No.11, 12 and 13 of the judgment rendered by the Appellate Court while rightly affirming the findings of the trial Court as under:-

“11. The present suit was filed by the appellant/ plaintiff

for seeking declaration that the judgment and decree dated 26.8.2003, 7.1.2006 and 15.10.2009 are illegal, null and void and not binding on the right of the plaintiff. Declaration is also sought that the temple in dispute is private and personal property of the plaintiff and defendants no.8 to 52 and they are owners in possession of remaining suit property and defendant no.1 to 7 have no authority in any manner to either dispossess the plaintiff from the possession of the suit property or to claim its ownership.

12. *However, the documents placed on record clearly shows that plaintiff has failed to establish her stand. Perusal of the judgment dated 26.8.2003 and Ex.DA reveals that in civil suit no.302 of 1992, a specific issue was framed with regard to the nature of the trust of temple either being private or public and it was decided that the temple was a public trust and the remaining land is owned and possessed by the deity established in the temple and the affairs of the temple and remaining property of temple is managed and looked after by the committee constituted as per the terms of the judgment dated 26.8.2003 and further mentioned in judgment Ex.DA. Moreover, the judgment dated 26.8.2003 and judgment Ex.DA of learned appellate court were confirmed even up to the Hon'ble High Court and in those judgments defendants no.1 to 7 were declared and determined to be members of the committee. Since the ownership of the property in dispute has already been decided vide judgment Ex.DA which was affirmed by Hon'ble High Court of Punjab and Haryana in RSA No. 1494 of 2006 decided on 15.10.2009 and so the plaintiff is not entitled to raise the same dispute before this court on filing the suit, because the suit is barred by principle of resjudicata and the trial court has rightly dismissed the suit of the plaintiff.*

13. *In view of the judgment dated 26.8.2003 and judgment Ex.DA of the appellant court and the RSA No. 1494 of 2006 was dismissed on 15.10.2009, defendant no.7 is the owner of the suit property. Plaintiff has failed to prove that the property in question is private or personal property of her and defendants No.8 to 52. There is no infirmity and impropriety in the findings*

of learned trial Court. Hence, the findings stands affirmed. No interference is required.”

9. In my opinion, the conclusions drawn by the learned trial Court and the learned first Appellate Court are in consonance with the record and facts of the case. There seems no perversity or illegality in the concurrent findings of facts returned by the Courts below on appreciation of evidence. No interference is thus called for to disturb the concurrent findings of facts recorded by the Courts below. No fresh ground worthy of interference in the appellate jurisdiction of this Court is made out.

10. Furthermore, neither any question of law much less substantial question of law, which is *sine qua non* for entertaining second appeal before this Court is involved in present appeal, so as to exercise appellate jurisdiction under Section 41 of the Punjab Courts Act read with Section 100 of Civil Procedure Code.

11. In view of my discussion above and the reasons recorded therein, this appeal is dismissed being bereft of any merit. Resultantly, both the impugned judgments and decrees passed by learned Courts below are upheld.

12. Pending applications stand disposed of.

13. No order as to costs.

(ARUN MONGA)
JUDGE

March 16, 2020
Jiten

Whether speaking/reasoned :
Whether reportable :

Yes/No
Yes/No