

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**1. RSA-1255-2019(O&M)
Date of Decision: 07.12.2021**

VINOD KUMAR AND OTHERS ..Appellants

Versus

THAKUR DAWARA PANJBIRI AND ANOTHER ..Respondents

2. RSA-1275-2019(O&M)

VINOD KUMAR AND OTHERS ..Appellants

Versus

THAKUR DAWARA PANJBIRI AND ANOTHER ..Respondents

CORAM: HON'BLE MR. JUSTICE ANILKSHETARPAL

Present: Mr. Akshay Bhan, Sr. Advocate with
Mr. Santosh Kumar Sharma, Advocate
for the appellants.

Mr. Sanjeev Manrai, Sr. Advocate with
Mr. R.K. Rathore, Advocate
for respondents.

ANIL KSHETARPAL, J.

This judgment shall dispose of RSA-1255 and 1275 of 2019.

Both these appeals arise from a common judgment passed by the First Appellate Court. The learned counsel representing the parties are ad idem that these appeals can be conveniently disposed of by a common order.

Both the appeals have been filed by the defendants. Concurrent findings of fact arrived at by the Courts below have been assailed while filing the Regular Second Appeal. The learned First Appellate Court has also reversed the finding of the trial Court directing the plaintiff, a religious institution to return the amount of lease money received beyond the period of three years.

Some facts are required to be noticed.

The plaintiff is a religious institution-Thakur Dawara Panjbiri. The property is owned by the aforesaid religious institution. The Manager of the aforesaid religious institution i.e. Mahant Tarsem Chand gave on lease the land measuring 125 kanals and 5 marlas (nearly 16 acres), for a period of 99 years at the rate of Rs.2,500/- per annum, vide registered lease deed dated 24.04.1988. Thereafter, on 23.07.2013, a civil suit was filed for declaration that the aforesaid lease deed is a result of fraud and misrepresentation. Although, both the Courts have found that the plaintiff has failed to prove the fraud or misrepresentation, however, the Courts after noticing the well settled position of law to the effect that in absence of any custom, usage or practice, the Mohtmim, Manager or Mahant has no power to alienate the property belonging to a religions/charitable institution for a period of 99 years as it amounts to permanent alienation. It may be noted here that the agricultural land has been leased out at the rate of Rs.156/- per acre, per annum, which is extremely low and unrealistic.

Heard the learned counsel representing the parties and with their able assistance perused the paper books.

The learned Senior counsel representing the appellants contends that once the Courts have found that the plaintiff has failed to prove the fraud, then, the suit should have been dismissed. He further submits that since both the Courts have essentially, applied the law of equity, therefore, the appellants are prepared to pay the market rate of rent. He further submits that the appellants have been in possession of the property since 1970, which is much before the execution of the lease deed dated 24.04.1998.

On the other hand, the learned Senior counsel representing the religious institution has contended that the Court is the guardian of the property belonging to a religious institution and in the present case, it is established that the Mahant without any power, custom, usage or practice to the contrary, the property on lease for 99 years for an amount which is ridiculously unrealistic.

It may be noted here that the issue of validity of long term lease of properties belonging to the religious institutions has been under the scanner of the Courts for quite some time now. In **Sheo Dayal Vs. Om Prakash 1992(1) PLR 102**, this Court held that the manager of the religious institution did not act in the interest of the institution while leasing out the property for 99 years on negligible annual lease amount. The Court further held that the permanent lease of a religious/charitable property is impermissible unless it is justified in law. Thereafter, once again the matter was re-examined at length in **Harji and another Vs. Smadh Baba Vijay Ram Chela Mangal Das 2003(2) PLR 734**. Again, this Court after discussing the various relevant judgments, held that the lease of property belonging to a religious institution by the Mahant for a period of 99 years in consideration for a negligible annual lease amount is an act which is not in the interest of the institution and therefore, the lease was set aside. Recently, this Bench has taken a similar view in **Dharamvir Singh and another Vs. Murti Mandir Mahadevji Maharaj Sathapit Mandir Mahadevji Maharaj, 2020(4) CCC 763**.

Now, the Bench proceeds to analyse the arguments of the learned Senior counsel representing the appellants. As regards the first argument, it may be noted here that although, no doubt both the Courts have

held that the plaintiff has not led any evidence to prove that the lease deed was not for the benefit for the institution, however, both the Courts have, concurrently, found that the lease consideration is negligible. Further, the appellants have failed to prove that the Mahant had the power to permanently alienate the property. It has been proved that the Mahant did not act in the interest of the religious institution. The learned Senior counsel representing the appellants has failed to prove that permanent lease of the religious property is permissible in law.

The next submission of the learned Senior counsel representing the appellants is with regard to the equitable jurisdiction of the Court. He contends that the appellants are prepared to pay the lease money at the market rate. This proposal was put to the learned counsel representing the respondents who has stated that the religious institution wishes to utilize the property in a more cogent manner.

Keeping in view the aforesaid facts, this Court does not find it appropriate to interfere in its second Appellate jurisdiction.

Hence, both the appeals are dismissed.

All the pending miscellaneous applications, if any, are also disposed of.

07th December, 2021

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**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No