

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

R.S.A.No.60 of 2021 (O&M)

Date of Order:19.02.2021

Mahant Parkash Chand

..Appellant

Versus

Surjit Dass and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sardavinder Goyal, Advocate,
for the appellant.

ANIL KSHETARPAL, J(Oral)

The plaintiff-appellant has filed the regular second appeal against the concurrent findings of fact arrived at by the courts below while dismissing the suit, seeking a declaration that he is Mohatmim /Manager of Thakurdwara Deh Haja (a religious place) located at village Tallewal, Tehsil Tapa, District Barnala. He has also prayed for a decree of mandatory injunction restraining defendant no.2 to 5 from handing over the possession of the suit land to defendant-respondent No.1.

The entire case of the plaintiff-appellant is based upon a writing dated 04.12.2006. The plaintiff-appellant claims that in the Bheikh (a gathering of Saints) he was appointed Mahant of the aforesaid religious institution.

Defendant-respondent No.1 while contesting the case asserted that the plaintiff-appellant was never appointed as the Mahant and in fact the defendant-respondent No.1 is Mahant of the religious place. Respondent/defendant No.2 to 5-the State Government contested the suit by taking a stand that the property has escheated in its favour and now the religious property is being managed through Naib Tehsildar of the area. It is further claimed that the plaintiff-appellant was never appointed as the Mohatmin.

Learned trial court after appreciating the pleading, framed the following issues:-

1. Whether plaintiff is entitled to declaration as prayed for?

OPP

- 2. Whether plaintiff is entitled for permanent injunction as prayed for? OPP*
- 3. Whether plaintiff is entitled for mandatory injunction as prayed for? OPP*
- 4. Whether plaintiff has no cause of action and locus-standi to file present suit? OPD*
- 5. Whether suit of plaintiff is within limitation? OPP*
- 6. Whether plaintiff has not come to the court with clean hands? OPD*
- 7. Whether suit is not filed by competent person? OPD*
- 8. Whether suit of plaintiff is bad for non service of mandatory notice U/s.80 CPC? OPD*
- 9. Relief.*

As noticed above, learned trial court on appreciation of evidence, found that the plaintiff-appellant has failed to prove its case. The plaintiff-appellant filed the first appeal which has also been dismissed after re-appreciation of evidence.

This court has heard learned counsel for the appellant at length and with his able assistance perused the paper book.

It may be noted here that at present the property is under the control of the State Government-respondent No.2 to 5 and its stand is that neither the plaintiff-appellant nor defendant/respondent no.1 are Mahants of the religious place. It has also come on record that the plaintiff-appellant was in military service and subsequently worked as a Security Guard in a Bank till 04.12.2006. Thus, upto 04.12.2006, the plaintiff-appellant was not a religious person. The plaintiff-appellant claims that he became a Saint or a religious person on 04.12.2006.

Learned first appellate court has noticed that PW8-Kulwant Singh, Photographer, who proved photographs Ex.PW8/A to Ex.PW8/D, admitted that a gathering was held at the house of the plaintiff-appellant. He further admitted that the plaintiff-appellant has constructed a temple at his place and the gathering was

held there only. Further, learned first appellate court considered the oral evidence of PW6-Mahant Bhagwan Dass and found that the plaintiff-appellant has failed to prove that he was validly appointed as a Mahant of the religious place. The relevant portion of his statement in the cross-examination which has been extracted by the learned first appellate court, correctness whereof is not challenged by the learned counsel for the appellant, is extracted as under:-

“I do not know as to who baptized Parkash Chand as indicted (sic initiated) him as Chela nor do I know when he was indicted (sic initiated) in the Waragi Bhek. It is correct that Parkash Chand was first in Army Services then he joined bank services and then he came to Village Tallewal. I do not know as to when Parkash Chand plaintiff was indicted (sic initiated) in the Waragi Bhek nor do I know as to on which date in which year he was indicted (sic initiated) in the waragi bhek. I do not know as to when he was made a chela nor do I know by whom he was made a chela. It is correct that in waragi Bhek when one is indicted (sic initiated) as per custom prevalent in the bhek in the gathering of the bhek he is put a kanthi of tulsii and appointed tilak and given a saffern pug. I do not know that as to when Parkash Chand joined the Waragi Bhek.”

And as regards ceremony is concerned, PW6 Bhagwan Dass has deposed as under:-

“It is correct that I was called to village Tallewal and some 20 Sadhu was (sic were) present there and I was asked to sign the Wahi. I do not know as to in whose place Parkash Chand was appointed as Mahant since the gathering was in the village only and not in the Dera Deh Haza Tallewal. It is correct that I know Surjit Dass Mohatmim Mahant Dera Deh Haza Tallewal for the last 20-30 years. He has been visiting the dera at Barnala of which I have been the Mahant of dera Baragia known as Dera Mohan Dhiram Dass Barnala for the 16-17 years. Mahant Surjit Dass has been coming and participating in the gathering of the Bhekh of Waragis in my dera as Mohatmim Mahant of

Dera Deh Haza Tallewal.”

Apart therefrom, the first appellate court has also noticed the statement of Balraj Singh, Ex. Sarpanch, who appeared as PW7. He admitted that plaintiff-appellant-Parkash Chand has built a new temple and he was never a religious person prior to 04.12.2006. The relevant portion of his statement in the cross-examination reads as under:-

“However he became Sadhu Baragi in the year 2006. Prior to this cate he was not a Sadhu i.e. prior to 04.12.2006. He was inducted in the Baragi Bheik in the year December 2006. I do not know the customs prevalent in Baragi Bheikh for inducing a person into the Bheikh however certain ceremony were performed, a pagri was given and certain Bhajan were recited. I do not know who was the president Mahant on that day.

This witness has further deposed as under:-

“It is correct that Parkash Chand has built a new temple in about 8/10 Biswas of land. He offers his prayers in that place only. There is no other temple in our village.”

Learned counsel appearing for the appellant contends that Surjit Dass, defendant/respondent No.1 was removed from Mahantship. He further submits that document Ex.P1 has been proved and therefore, the plaintiff-appellant is entitled to the declaration.

On perusal of the issues framed, it is apparent that the courts below did not frame any issue with regard to the question “as to whether respondent/defendant No.1-Surjit Dass is the Mahant or not?” In any case, from reading of Ex.P1, it is apparent that Surjit Dass was a Mahant at one point of time. In the absence of a specific issue, the observation made by the learned first appellate court that respondent/defendant No.1-Surjit Dass is the Mahant cannot be read in a manner to hold that Surjit Dass has been declared as the Mahant of the religious place nor any such declaration in favour of respondent/defendant No.1-

Surjit Dass has been given.

As regards Ex.P1, it may be noted that the learned first appellate court has thoroughly examined the evidence and come to a conclusion. The first appellate court has held that Ex.P1 is not sufficient to prove that the plaintiff-appellant was nominated/selected/appointed as the Mahant of the religious place.

Learned counsel for the plaintiff-appellant has failed to draw the attention of the Court to error warranting interference.

Keeping in view the aforesaid facts, no ground to interfere in the concurrent findings of fact is made out.

Hence, dismissed.

19th February, 2021
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No