

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

CR-6693-2016 (O&M)

Reserved on 14.12.2022

Date of Decision : 20.12.2022

Gurdev Kaur (deceased) through LRs & Ors.

....Petitioners

VERSUS

Mandir Mahadev Ji Arnuai & Anr.

...Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Jagdish Manchanda, Advocate and
Mr. Vishal Sauda, Advocate for the petitioners.

Mr. Surender Dhull, Advocate for the respondents.

ALKA SARIN, J.

The present revision petition under Article 227 of the Constitution of India has been filed challenging the order dated 01.09.2016 whereby the application filed by the respondent No.2 herein for being impleaded as a party under Order 1 Rule 10 of the Code of Civil Procedure, 1908 (CPC) has been allowed and the application filed by the defendant-respondent No.1 for setting aside the *ex parte* proceedings dated 22.12.2010 has also been allowed.

Learned counsel for the plaintiff-petitioners submitted that the plaintiff-petitioners filed a suit for declaration and possession against Mandir Mahadev Ji Arnuai, Tehsil Pehowa, District Kurukshetra and vide order dated 22.12.2010 the defendant-respondent No.1 was proceeded against *ex*

parte. Thereafter, on 09.12.2014 an application was filed under Order 1 Rule 10 CPC by the respondent No.2 herein for being impleaded as a party. An application was also filed by the defendant-respondent No.1 for setting aside the *ex parte* proceedings dated 22.12.2010. Learned counsel for the plaintiff-petitioners would contend that a perusal of the applications for setting aside the *ex parte* order and for being impleaded as a party (Annexures P-1 and P-4) reveals that both the applications are totally bereft of any details as to when the respondent No.2 herein became the Mahant and as to when the earlier Mahant is said to have resigned. Though vague averments have been made in the applications that Gangapuri was not the Mahant at the time of filing of the suit and that he had resigned from the post, however, no dates are forthcoming as to the date of resignation of Gangapuri as well as the date of appointment of the respondent No.2 herein as Mahant.

Per contra, learned counsel for the respondents has contended that the defendant-respondent No.1 is a juristic person and has to be defended through the Mahant who was wrongly impleaded by the plaintiff-petitioners in connivance with Gangapuri.

Heard.

In the present case, a perusal of the application (Annexure P-1) reveals that the same is totally bereft of any details as to the date of resignation of the earlier Mahant Gangapuri or the date of the appointment of the respondent No.2 as Mahant. In the absence of any details in the application, it is not understandable how the same could have been allowed. A perusal of the impugned order reveals that both the applications have been dealt with in a very casual manner without so much as adverting to the contents of the applications. No reasoning is forthcoming on the basis of

which the application for setting aside the *ex parte* proceedings has been allowed.

In view of the above, the present civil revision is partly allowed and the impugned order is set aside. The application filed by the respondent No.2 herein for being impleaded as a party under Order 1 Rule 10 CPC is dismissed.

The application filed by the defendant-respondent No.1 for setting aside the *ex parte* proceedings dated 22.12.2010 is remanded for a decision afresh in accordance with law.

Pending applications, if any, also stand disposed off.

It is made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

20.12.2022
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE : Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO