

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

CR-4386-2022 (O&M)

Date of decision : 21.10.2022

Davinder Kumar

... Petitioner(s)

Versus

Shri Chakardhari Mandir Sudhar Committee & Ors.

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Narinder S. Lucky, Advocate for the petitioner.

ALKA SARIN, J. (ORAL)

The present revision petition has been preferred against the impugned order dated 02.09.2022 whereby the objections filed by the petitioner under Section 47 of the Code of Civil Procedure, 1908 (CPC) read with Order 21 Rule 101 CPC have been dismissed along with the application for recalling/withdrawing warrants of possession of the property.

The brief facts relevant to the present *lis* are that the plaintiff - Shri Chakardhari Mandir Sudhar Committee, Chakardhari Mandir, Chowk Panjpir, Jalandhar - filed a civil suit bearing No.CS-236-1996 on 20.07.1996 against Sham Lal, who is none other than the father of the present objector-petitioner. The suit was for mandatory injunction directing the defendant therein, Sham Lal, to vacate the room in his possession in the Mandir as also for permanent injunction restraining the defendant therein not to interfere and create disturbance or nuisance in the public for worshipping idols. It

was averred in the plaint that the plaintiff - Chakardhari Mandir - was a

registered body and that the defendant - Sham Lal - was employed as a Sewadar and one room shown as red in the plan was given to him to stay for the purpose of doing work on behalf of the society. The defendant therein taking advantage filed an ejectment petition against one of the tenant of the plaintiff. The said ejectment petition was dismissed and it was held that the defendant was an employee or Sewadar of the plaintiff-society. Earlier also the plaintiff - Chakardhari Mandir - had filed a suit against the defendant Sham Lal for restraining him for making any construction or addition or alteration in the Mandir Chakardhari and Sham Lal, defendant therein, had made a statement that he would not make any addition or alteration or construction and that it was the plaintiff - Chakardhari Mandir - who had full right to make the construction. It was further averred that the defendant - Sham Lal - was creating nuisance and harassing the plaintiff and did not allow the public to worship in the Mandir and was using filthy language. The suit was contested by the defendant - Sham Lal - taking a stand that the property in dispute was of his mother, who got the said property after 1947 and constructed her house. It was the further stand that she was pious and religious lady and for worship she constructed the Shivling and statue of Shri Krishan Ji which is also known as Chakardhari. On the basis of the pleadings of the parties and the evidence on the record, the Trial Court decreed the suit of the plaintiff on the ground that there was no evidence to show that the mother of the defendant - Sham Lal - was the owner of the disputed property. It was held that the disputed property is a Mandir which is being managed by the plaintiff and that the defendant - Sham Lal - was

his licence was revoked and thereafter he failed to hand over the vacant possession. The suit was decreed vide judgment and decree dated 26.05.2005. Aggrieved by the said judgment and decree, an appeal was preferred which was also dismissed vide judgment and decree dated 21.02.2009. Both the judgments and decrees dated 26.05.2005 and 21.02.2009 were challenged before this Court in RSA No.3106 of 2009 which was also dismissed vide judgment dated 12.07.2017.

The present objections have been filed only on the ground that the objector-petitioner herein had taken the property on lease from the Punjab Wakf Board vide lease order dated 03.03.2004. An application (CM-13923-CII-2022) has been filed for placing on record Annexure P-4 which is the lease order issued by the office of Punjab Wakf Board. The categorical stand of the father of the objector-petitioner in the suit was that the property belonged to his mother who had constructed the house after 1947. Having failed right upto this Court, in the execution petition the objector-petitioner, who is the son of the defendant - Sham Lal - has filed the present objections raising a plea that he was a lessee under the Punjab Wakf Board. It is apt to note that Sham Lal, who is the father of the present objector-petitioner, never raised any such claim that he was a lessee under the Punjab Wakf Board.

Learned counsel for the objector-petitioner has relied upon Annexure P-4 appended with CM-13923-CII-2022 to contend that the document clearly reveals that the petitioner-petitioner was a lessee under the Punjab Wakf Board and, hence, not having been made a party to the civil suit, the decree was un-executable. It is further contended that the objector-

petitioner is regularly paying rent to the Punjab Wakf Board.

Heard.

In the present case, a query was put by this Court as to whether any such plea was raised before the Civil Court by the father of the objector-petitioner and as to whether this document or any other document was placed on the record in the civil court proceedings to contend that the property was leased by the Punjab Wakf Board. In response, learned counsel for the objector-petitioner has candidly admitted that neither any such ground was raised nor any such document was placed on the record. It is also an admitted case that no document barring Annexure P-4 exists to show that the objector-petitioner is an alleged lessee under the Punjab Wakf Board. The objections have been filed only to defeat the right of the decree-holder/respondent who has been contesting the case since the year 1996. The objections have not been filed bonafide. Neither the objector-petitioner, who is none other than the son of the defendant - Sham Lal - against whom the Civil Court decree was passed, ever made any application for being impleaded as a party nor his father who is admittedly staying in the same property took any such stand that the property was owned by the Punjab Wakf Board. Having tried his luck right upto this Court and having failed, the objections have been filed only to delay the execution proceedings. Learned counsel for the objector-petitioner has not been able to show any material on the record which would even remotely suggest that the property was leased out to the objector-petitioner by the Punjab Wakf Board barring Annexure P-4 which is dated 03.03.2004 and pertains to a lease for 11 months.

The argument of learned counsel for the objector-petitioner that the rent is regularly being paid to the Punjab Wakf Board is also belied by the fact that not a single document was appended either before the Executing Court or before this Court to show that any rent was being paid to the Punjab Wakf Board as alleged.

In view of the above, I do not find any illegality or infirmity in the impugned order passed by the Court below. The present revision petition which is devoid of any merit is accordingly dismissed. Pending applications, if any, also stand disposed off.

21.10.2022
Yogesh Sharma

(ALKA SARIN)
JUDGE

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