

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

2024:PHHC:103940



RSA No.867-2019 (O&M)
Date of Decision:- 12.08.2024

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Narinder Singh and another

...Appellants

Versus

Mahant Kishan Dass (since deceased) through LR and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr.Namit Gautam, Advocate
for the appellants.

PANKAJ JAIN, J. (Oral)

1. Defendant is in appeal.
2. For convenience, the parties herein-after-referred to by their original position in the suit i.e. appellant as defendant and the respondent as plaintiff.
3. Plaintiffs filed a suit seeking permanent injunction restraining the defendants from interfering peaceful possession of land measuring 79K-1M as detailed in the head note of the plaint. Plaintiffs claimed that the land in dispute was attached to Dharamshala Sarupmani which was under the control and management of then Mohatamim/Manger namely Mahant Gobind Nand who expired on 03.02.1984. He was succeeded by his Chela Mahant Hari Parkash who became Mohatamim of the said Dharamshala including the land in question. After the death of Mahant Gobind Nand, the defendants, on the strength of lease deed for a period of 99 years alleged to have been executed in the year 1983, are trying to interfere in the possession of the plaintiffs. The suit

was resisted by the defendants who propounded the lease deed registered on 23.09.1983 alleged to have been executed by Mohatamim Gohind Nand and claimed to be in possession of the suit land.

4. On the basis of the pleadings of the parties, the trial court framed the following issues:-

1. Whether the plaintiff is entitled to the relief of Permanent Injunction, as he has prayed for? OPP.
2. Whether the suit is not maintainable in the present form? OPD
3. Whether the plaintiff has no locus standi or cause of action to file the present suit? OPD
4. Whether the plaintiff has concealed the material facts from the court, if so its effect? OPD
5. Whether the plaintiff has not come to the Court with clean hands, if so, its effect? OPD
6. Whether the plaintiff is estopped by his own act and conduct from filing the present suit? OPD
7. Whether the suit is bad for mis-joinder and non- joinder of necessary parties? OPD
8. Relief'

5. After discussing the evidence, the court found that the pertinent question to be decided in the lis with respect to the possession over the suit property.

6. Both the courts below held that the lease deed propounded by the defendants already stands disbelieved in the earlier round of litigation vide judgment and decree dated 10.03.2004 passed by Civil Judge which was affirmed by the appellate court vide judgment dated 10.01.2005. The courts below on the strength of the aforesaid finding came to the conclusion that after passing of the said decree, there is nothing on record brought by the defendants to show that they were in possession of the suit land. Thus, having lost first round, the defendants cannot be allowed to fall back on the

same lease deed in the subsequent round of litigation. The aforesaid finding stands affirmed by the appellate court.

7. Learned counsel for the appellants while assailing the impugned judgment that trite it is, finding recorded in the suit for permanent injunction cannot be held to be binding in the subsequent round of lis. However, he is not in a position to dispute that so far as the judgment and decree dated 10.03.2004 against the appellants' concerned, the same has attained finality. The lease deed relied upon by the defendants in the instant suit was propounded unsuccessfully in the earlier round of litigation between the same parties. He is not in a possession to refer to any document on record or any pleading to show that can demonstrate as to how defendants came in possession of suit land subsequent to passing of the judgment dated 10.03.2004 passed in earlier suit.

8. In view of the above, this Court does not find any reason to interfere with the findings recoded by the courts below.

9. Hence, the present appeal is dismissed.

12.08.2024
sd

(PANKAJ JAIN)
JUDGE

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