

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-889 of 1994 (O&M)
Date of Order:05.04.2024

Mahatma Mansoor (Deceased) through LRs

.Appellant

Versus

Mahatma Satnam Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. C.R.Narwal, Advocate
Mr. Ramesh Hooda, Advocate
for the appellant.

Mr. Vijay Kumar Jindal, Sr. Advocate, with
Mr. R.Kartikeya, Advocate and
Mr. Pankaj Gautam, Advocate
Mr. Bakshish Singh Thind, Advocate
for the respondents.

ANIL KSHETARPAL, J

C.M.No.958-C-2024

1. For the reasons mentioned in the application, which is supported by an affidavit, the application is allowed and Sh. Satyaprakash son of Mahatma Mansor is substituted as appellant.

2. The amended memorandum of parties is taken on record.

3. BRIEF FACTS OF THE CASE:

3.1 The defendants has filed this regular second appeal challenging the correctness of the concurrent findings of fact arrived at by the courts below while decreeing the plaintiff's suit for grant of declaration that he is 'Gaddi Nashin' and possessor of Dera (religious institution) and the defendants have no concern with the Dera.

3.2 It may be noted here that two different counsel filed

applications to bring on record separate individuals as legal representatives of the appellant, who has died. Both the learned counsel have been heard. As a result, this court will not engage in determining the legal representative among them.

3.3 In order to comprehend the issue involved in the present case, the relevant facts, in brief, are required to be noticed.

3.4. The plaintiff filed a suit claiming that Param Sant Mastana established the Dera after purchasing the property vide sale deed dated 15.10.1959, from Sh. Parsa Ram and Sh. Surja. The plaintiff claiming to be the disciple of Sh. Param Sant Mastana, filed the suit to the effect that he possesses the Dera and manages the property.

3.5. On the other hand, the defendants while contesting the suit pleaded three different stands:-

- (i) At the first instance, the defendants stated that they are the disciples of Kavi Raj 600 Mastana, and they were managing the property. Sh. Kavi Raj 600 Mastana had purchased the properties in the name of Sh. Param Sant Mastana.
- (ii) That the Managing Committee through its President Sh. Bhera Ram is managing the Dera.
- (iii) The defendants have perfected their title by way of adverse possession.

3.6. Both the courts upon appreciation of the evidence, decreed the suit particularly when one of the vendor Sh. Persa Ram testified in the Court that the property was sold to Sh. Param Sant Mastana and Kavi Raj 600 Mastana was nowhere in the picture. The court also found that the litigation

ensued between the natural heirs of Sh. Param Sant Mastana on the one hand and the plaintiff on the other hand in which it was declared that the plaintiff is managing the property and is Mahant of the Dera.

4. **ARGUMENTS PUT FORTH BY THE LEARNED COUNSEL REPRESENTING THE PARTIES:-**

4.1 This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paper book along with the scanned requisitioned record.

4.2 The learned counsel representing the appellant has made the following submissions:-

- (i) The courts below have not taken into consideration the electricity bill showing that Kavi Raj 600 Mastana is in possession of the property.
- (ii) The plaintiff has not come forward to testify in the Court.
- (iii) In the revenue record, the entry is in favour of Kavi Raj 600 Mastana and not the plaintiff.

4.3 Per contra, the learned senior counsel representing the respondents submits that all the electricity bills except one prove that Sh. Param Sant Mastana had established the religious institution and the electricity bill was in his name. Moreover, Sh. Persa Ram, one of the vendors, has deposed that the sale deed was executed in favour of Sh. Param Sant Mastana and Kavi Raj 600 Mastana had no role to play. He further submits that in an inter-se litigation between the natural heirs of Sh. Param Sant Mastana and the plaintiff, it has been declared that the plaintiff is entitled to manage the property. He further submits that sufficient evidence has been led to prove that the plaintiff was handed over the management of

the Dera after the death of late Sh. Param Sant Mastana.

5. **DISCUSSION BY THIS COURT**

5.1 This court has considered the submissions of the learned counsel representing the parties.

5.2 With respect to the first argument of the learned counsel representing the appellant, it may be noticed that the electricity bill at the most shows that there is an electric connection issued by the Electricity Board or Supply Company in favour of an individual. However, it does not establish the rights to manage the property of the religious institution. Moreover, the argument of the learned counsel representing the respondents to the effect that all electricity bills except one are in favour of Sh. Param Sant Mastana has not been controverted by the learned counsel representing the appellant.

5.3 With regard to the second submission of the learned counsel representing the appellant, it may be noticed that failure of the plaintiff to step into the witness box to testify may enable the court to draw adverse inference if sufficient evidence has not been led. The basic concept of drawing adverse inference stems out from Section 114 of the Indian Evidence Act, 1872, which provides that the court may presume that the evidence which could be and is not produced would, if produced, be unfavourable to the person who withholds it. However, it is not necessary to draw adverse inference in each and every case, even when sufficient evidence has been led.

5.4 With regard to the last submission, it may be noticed that entry in the revenue record would not change ownership. The sale deed has been executed by the vendors in favour of Sh. Param Sant Mastana, the vendee.

The defendants have not claimed to be the disciples of Sh. Param Sant Mastana. It is not the defendants' case that Kavi Raj 600 Mastana was a disciple of Sh. Param Sant Mastana.

6. **DECISION:-**

6.1 Keeping in view the aforesaid facts and discussion, no ground to interfere is made out.

6.2 Dismissed.

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

April 05, 2024
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned :YES/NO
Whether reportable :YES/NO