

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

146

CR-2315-2024 (O&M)
Date of decision: 23.07.2024

GURDWARA TIRATHSAR SAHIB AND ORS ..Petitioners

Versus

DERA GRANTH SAHIB AND ANR ..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ashok Singla, Advocate
Mr. Aakash Singla, Advocate
and Mr. Ankush Singla, Advocate
for the petitioners.

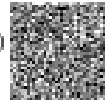
Mr. Sukhdeep Singh Bhinder, Advocate
Ms. Indira, Advocate
and Mr. K.M. Kang, Advocate
for respondent No.1.

ANIL KSHETARPAL, J(Oral)

1. In this revision petition, the petitioners assail the correctness of an interlocutory order passed by the trial Court while appointing receiver of the suit property, who has been directed to manage and collect all the proceeds of the land till the disposal of the suit.

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

3. This litigation ensued between the then '*Mahant*' on the one hand and Shiromani Gurdwara Prabandhak Committee (hereinafter referred to as the '*SGPC*') on the other hand. The aforesaid litigation culminated into Civil Appeal No.6386 of 1983, decided on 12.01.2011. In the aforesaid litigation, it was declared that the '*Dera*' established by a '*Nirmala Sadhu*' is a religious institution for imparting religious teachings to the disciples and it is not a '*Gurdwara*' within the meaning of expression defined in Sikh



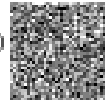
Gurdwara Act, 1925. It appears that pursuant to the aforesaid judgment, the 'Dera' (plaintiff) filed a suit for possession of two parcels of land measuring 100 kanal & 3 marlas and 196 kanals with a consequential relief of permanent injunction. The suit was filed against SGPC. On 12.06.2023, during the pendency of the suit, the plaintiff filed an application under Order I Rule 10 of the Code of Civil Procedure, 1908 (hereinafter referred to as the 'CPC') with a prayer to implead defendant No.2 to 15 as party to the suit. The aforesaid application is stated to be pending before the Court. It may be noted here that SGPC while filing the written statement has claimed that the suit property is not in its possession.

4. Subsequently, the plaintiff filed an application under Order XL Rule 1 and 2 of the CPC for appointment of receiver. The Court while totally misreading the application, ordered the appointment of receiver. The correctness of the aforesaid order is challenged by the petitioners, who are sought to be impleaded as defendants in the suit.

5. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

6. On 19.04.2024, while issuing the notice of motion, the following order was passed:-

"Learned counsel for the petitioners inter alia submits that petitioners are aggrieved by the impugned order dated 01.04.2024 (Annexure P-5) whereby receiver is appointed for the property comprised in the suit which is in actual cultivating possession of petitioner Nos.1 and 2. It is further submitted that the plaintiff through Mahant Ishvardas Singh with ulterior motive filed the suit for possession against respondent No.2 only and in the suit itself specifically mentioned that plaintiff-respondent No.1 is not in possession of the suit property. In the earlier litigation, proceedings under Section 145 Cr.PC were initiated at the instance of the said Mahant Ishvardas Singh. In the said proceedings, it was held that



petitioner Nos.1 and 2 are in possession of the suit property. Even revision filed against the said, was dismissed. The respondent No.1/plaintiff moved application long time back for impleading petitioner as party in the suit. The said application was not decided. The petitioners have also now moved an application under Order 1 Rule 10 CPC for impleading them as party in the suit and both the applications have remained undecided till today.

Notice of motion for 13.11.2024.

In the meantime, operation of the impugned order dated 01.04.2024 (Annexure P-5) is stayed.”

7. The learned counsel representing the petitioners submits that the wheat crop has been harvested and sowing of rice crop has been completed.

8. He submits that the impugned order was passed by the Court by entirely misreading the contents of the application and without issuing notice to the petitioners, who are in possession of the suit property. He submits that on the one hand, the application filed by the plaintiff under Order I Rule 10 of the CPC to implead the petitioners as party defendants, has been not been decided, whereas, on the other hand, the petitioners dispossession at the hands of receiver has been ordered.

9. Per contra, the learned counsel representing respondent No.1 submits that the petitioners being ‘*Dera Granth Sahib*’ is entitled to possession and the Court has only ordered preservation of the property during the pendency of the suit.

10. This Court has considered the submissions of the learned counsel representing the parties.

11. It is evident that the plaintiff filed the suit for grant of decree of possession. Hence, the plaintiff does not claim that it is in the physical possession of the property. In fact, the suit is for grant of decree of possession. The trial Court has totally misread the application.



12. Secondly, it was not appropriate for the trial Court to appoint a receiver without giving an opportunity to the petitioners to present their case. The SGPC had stated that they are not in possession. In such circumstances, it was incumbent on the Court to grant the petitioner an opportunity of hearing before passing the order.

13. Keeping in view the aforesaid facts, the revision petition is allowed. The impugned order is set aside. The trial Court is directed to decide the application filed by the plaintiff under Order I Rule 10 of the CPC at the first instance. Thereafter, the Court shall have liberty to pass fresh order on the application under Order XL Rule 1 and 2 of the CPC.

14. This Court has been informed that the petitioners have also filed an application under Order I Rule 10 of the CPC, which shall also be considered by the Court in accordance with law.

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

July 23rd, 2024

Ay

(ANIL KSHETARPAL)
JUDGE

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