



IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

RSA-2200-2022 (O&amp;M)

Reserved on: 20.04.2024

Date of decision: 30.05.2024

Malkiat Singh

....Appellant

Versus

Prabhjot Singh and others

..Respondents

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present:- Mr. Santosh Sharma, Advocate for the appellant  
Mr. Kanav Singla, AAG, Punjab,  
for respondent no.17, 18 and 19

**ANIL KSHETARPAL, J**

1. This Regular Second Appeal has been filed by defendant no.10 to assail the correctness of the judgment passed by the First Appellate Court, which in turn, has modified the judgment passed by the trial court.

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

3. A religious institution namely Dera Gurmukh Singh Ugoke is located in Tehsil Barnala, which has an agricultural land measuring 148 kanal 5 marlas, Dera Building and Guru Teg Bahadur Ayurvedic Charitable Hospital constructed in an area of 2 kanals 2 marlas. Previously, the institution and the property was being managed by Mahant Mohinder Singh, who died on 23.01.2001. Dispute with regard to the management of the religious institutions and its properties is the bone of contention.

4. Sh.Prabhjot Singh, chela Mahant Mohinder Singh filed a suit for declaration claiming that the aforesaid Dera follows the tradition



of Nirmal Sampardae and Panchayati Akhada, Nirmala (Registered) Kankhal is the supreme body, which regulates the working of various Deras belonging to Nirmal Sampardae claiming to have been appointed as Mahant by a Committee constituting of Mahant Nazar Singh, Mahant Hakam Singh, Mahant Sudarshan Singh, Mahant Jaga Singh, Mahant Mohinder Singh under the Chairmanship of Mahant Pandit Gyan Dev Singh, President of the Panchayati Akhada Nirmala (Registered) Kankhal. He filed the suit. He stated that in a congregation of Sadhus and Mahants of the Nirmal Sampardae, the plaintiff was appointed as Mahant and a memorandum was also scribed in the Bahi.

5. Defendant no.1 is the niece of Mahant Mohinder Singh, who died. She claims to have been appointed as a Mahant on 08.02.2002 by Nirmala Bhekh. She admits that this Dera belongs to Nirmal Sampardae. Defendant no.2 claims to be the disciple of Mahant Mohinder Singh, who was rendering service in the Dera for the last 13-14 years.

6. Mahant Mohinder Singh executed a power of attorney as well as a Will in his favour and he was appointed as Mahant on 13.01.2007. Defendant no.7 is the Ex Sarpanch of the Village. He filed his separate written statement claiming that the property is being managed by a committee of residents.

7. Upon appreciation of evidence, the trial court held that the plaintiff as well as defendant no.1 and 2 have failed to prove their case. Consequently, the court ordered that the State of Punjab should manage the property of the Dera. Three different appeals were filed before the



First Appellate Court. First appeal was filed by the plaintiff; whereas the second appeal was filed by defendant no.2-Inderjit Singh. The third appeal was filed by Niranjana Singh son of Najender Singh and Narinder Singh, ex Sarpanch, who claim to be the Vice President of Dera Gurmukh Singh (Regd.).

8. Upon re-appreciation of evidence, the First Appellate Court decreed the plaintiff's suit whereas dismissed two appeals filed by defendant no.2 on one hand and defendant no.3 and 7 on the other hand.

9. At the first instance, the judgment passed by the First Appellate Court was challenged in RSA-693-2022 by Inderjit Singh (defendant no.2), who withdrew the same on 20.02.2024. As already noticed, this appeal was filed by defendant no.10 who was ex-parte. He claims to be a cultivator and follower of the Dera.

10. Heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

11. Learned counsel representing the appellant submits that the First Appellate Court has erred in reversing the judgment of the trial court and the congregation (Bhekh) was never properly convened as recorded by the trial court. He submits that the First Appellate Court has erred in overlooking this aspect. He also relies upon the judgments passed in **Lakha Gir Chela Mahant Darbara Gir of Balran vs. General Public and others 2019 (1) PLR 287, Mahant Kesar Dass vs. Hari Dass and others 2017 (1) PLR 832 and Hem Raj vs. Nand Kishore 1994 (1) RRR 653.**



12. This Court has considered the submissions made by the learned counsel representing the parties and carefully studied the judgment passed by the First Appellate Court.

13. It is not disputed by the plaintiff as well as defendant no.1 and 2 that the Dera belongs to Nirmal Sampardae, which is a religious sect. Defendant no.1 claims that its affairs are managed by Nirmala Malwa Mandal under the Chairmanship of Mahant Bhag Singh. However, she has failed to prove the same. It has come on record that defendant no.1 is married and is residing in Village Bhagatgarh, which is a different village. She has two children. She is also residing in Village Bhagatgarh.

14. With respect to the claim of defendant no.2, it has been found that the Will executed by late Sh.Mahant Mohinder Singh as well as power of attorney in favour of defendant no.2 was cancelled. Hence, the claim of defendant no.2 has correctly been rejected by both the courts.

15. Appellant (defendant no.10) neither filed the written statement before the trial court nor appeared in evidence to testify. He appears to be propounding the case of defendant no.7, who claims to be the Secretary of the Trust.

16. It may be noted here that the plaintiff has not only proved the writing entered in the Bahi but also proved the congregation of Sadhus and Mahants by producing the photograph and examining Photographer namely PW1 Lakhwinder Singh. He has also examined PW2 Mahant Hakam Singh, PW3 Mahant Jaga Singh, PW4 Mahant



Jagtar Singh, PW5 Mahant Darshan Singh, PW7 Mahant Balwant Singh have proved that a meeting was held under the Chairmanship of Mahant Pandit Gyan Dev Singh on 11.03.2005 and the plaintiff was appointed as Mahant of the Dera.

17. The findings of the trial court to the effect that the congregation of the religious saints was never properly convened does not stand close scrutiny.

18. The First Appellate Court has examined the aforesaid aspect elaborately. It has been held that the findings of the trial court is result of misreading of evidence. It has been noticed by the First Appellate Court that evidence of PW2 Mahant Hakam Singh, PW3 Mahant Jaga Singh, PW4 Mahant Jagtar Singh, PW5 Mahant Darshan Singh has been wrongly discarded by the trial court. It has been held that the trial court has misconstrued their cross examination while analysing the evidence. Learned counsel representing the appellant has failed to draw the attention of the Court to any misreading of wrong interpretation of evidence by the First Appellate Court.

19. The scope of interference in Regular Second Appeal in the States of Punjab, Haryana and Union Territory, Chandigarh is regulated by Section 41 of the Punjab Courts Act, 1918. After interpreting scope of Section 41, the Hon'ble Supreme Court in a recent judgment passed in **Randhir Kaur vs. Prithvi Pal Singh and others (2019) 17 SCC 71** in para 15, held as under:-

*“A perusal of the aforesaid judgments would show that the jurisdiction in second appeal is not to interfere with the findings of fact on the ground that findings are erroneous, however, gross or inexcusable the*



*error may seem to be. The findings of fact will also include the findings on the basis of documentary evidence. The jurisdiction to interfere in the second appeal is only where there is an error in law or procedure and not merely an error on a question of fact.”*

20. The same view has been reiterated by the Supreme Court in ***Avtar Singh and others vs. Bimla Devi and others, (2021) 13 SCC 816.***

21. Keeping in view the aforesaid facts, no ground to interfere. Hence, dismissed.

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

30.05.2024  
rekha

(ANIL KSHETARPAL)  
JUDGE

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