

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

RSA No.1872 of 2022 (O&M)

DATE OF DECISION : 12.01.2024

Shahid Hussien and Another

.....Appellants

versus

Piyau Bhodd Wali Habib Patti Badullan, Masjid Committee (Regd)

.....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Rajesh Lamba, Advocate for the appellants

Mr. Vikas Kumar, Advocate for the respondent

ALKA SARIN, J. (Oral):

1. The present appeal has been preferred against the judgments and decrees dated 19.01.2018 and 23.03.2022 passed by the Civil Judge (Junior Division), Faridabad and the Additional District Judge, Faridabad, respectively.

2. The brief facts of the present case are that the plaintiff-respondent-Masjid Committee, which is a registered Society under the Haryana Registration and Regulation of Societies Act, 2012 (Haryana Act No.1 of 2012), filed the present suit stating therein that the suit property, which is a Masjid, was under the exclusive control and supervision of the Committee for the last 50 years. The Masjid was used by the Muslim community for religious purposes. It was further averred that the defendant-appellants herein, who had no concern with the suit property, were trying to

interfere in the suit property by demolishing the southern side boundary wall at Point A-1 of the *chopal* of the Masjid and the defendant-appellants were intending to convert the *chopal* into a cattle shed. Hence, the present suit for injunction

3. Upon notice, the defendant-appellants filed a written statement raising preliminary objections with regard to *locus standi*, maintainability, cause of action, estoppel and the suit being bad for mis-joinder and non-joinder of necessary parties and suppression of material facts. On merits, it was claimed that the defendant-appellants are the owners-in-possession of the Masjid and the ancestor of defendant-appellant No.1 was the Imam of the said Masjid since time immemorial and that they were managing the affairs of the Masjid in all respects and the Masjid had been under their possession, control, supervision and management. The defendant-appellants also questioned the *locus standi* of the plaintiff-respondents to file the present suit.

4. From the pleadings of the parties, the following issues were framed :

1. Whether the plaintiff is entitled for a decree of permanent injunction against the defendants, as prayed for? OPP
2. Whether the plaintiff has no locus standi to file the present suit? OPD
3. Whether the plaintiff has no cause of action to file the present suit? OPD

4. Whether the suit of the plaintiff is bad for mis-joinder and non-joinder of necessary parties? OPD

5. Relief.

5. The Trial Court decreed the suit of the plaintiff-respondent. The appeal by the defendant-appellants was dismissed by the Lower Appellate Court. Hence, the present regular second appeal.

6. Learned counsel for the defendant-appellants would contend that the forefather of the defendant No.1 was the Imam of the Masjid and the Masjid had been in his possession and under the management of the defendant-appellants and their family. It is further the contention that the Society has no *locus standi* to file the present suit.

7. *Per contra*, learned counsel for the plaintiff-respondent has contended that the Society is a registered Society and the revised certificate of registration of Society was duly placed on the record and proved in accordance with law. It is further the contention of the learned counsel that a specific issue was framed qua the *locus standi* of the plaintiff-respondent to file the present suit i.e. Issue No.2. The onus to prove Issue No.2 was cast upon the defendant-appellants herein before the Trial Court. However, the defendant-appellants herein did not press Issue Nos.2 to 4 and hence the same were decided against the defendants.

8. Heard the learned counsel for the parties.

9. In the present case, the plaintiff/respondent-Society had approached the Court by showing their *locus standi* to file the present suit by placing and proving on record the revised certificate of registration of the

Society. It is apt to notice that the defendant-appellants at no point of time had filed any suit challenging the registration of the Society or the *locus* of the Society. Even in the present suit no counter-claim was filed. Rather, the issue framed, which was Issue No.2, qua *locus* of the plaintiff to file the present suit was also decided against the defendant-appellants in view of the fact that the same was not pressed by the defendant-appellants. In view of the above, the argument of the learned counsel for the defendant-appellants regarding the *locus standi* of the plaintiff-respondent to file the present suit cannot be accepted.

10. The second argument of the learned counsel for the defendant-appellants that the defendant-appellants are the owners-in-possession of the Masjid also deserves to be rejected in the absence of any evidence on the record to show that they were the owners-in-possession of the Masjid. No evidence has been led by the defendant-appellants to even show that they were managing the affairs of the Masjid at any point of time.

11. In view of the above, I do not find any merit in the present appeal. No question of law, much less any substantial question of law, arises for determination in the present appeal and the same is accordingly dismissed. Pending applications, if any, also stand disposed off.

12.01.2024
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(ALKA SARIN)
JUDGE

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