

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-13110-2023 (O&M)
Reserved on: 31.01.2024
Date of Decision : February 19, 2024

MANDIR SHRI SATYA NARAYAN

...Petitioner

V/S

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE LALIT BATRA

Present : Mr. Veneet Sharma, Advocate
for the petitioner.

Mr. Maninder Singh, DAG, Punjab

Mr. Nandan Jindal, Advocate and
Mr. Tushar Sabherwal, Advocate
for respondent No.4.

Mr. M.L. Saini, Advocate
for respondents No.5, 6 and 10.

SURESHWAR THAKUR, J.

1. The present petitioner becomes aggrieved from the concurrently made decisions respectively, passed on 29.09.2015 (Annexure P-18) and, on 13.05.2021 (Annexure P-20), by the learned DDPO, Patiala, and, by the learned Commissioner concerned, wherebys his espoused declaratory claim for his becoming declared owner in possession of the suit lands, rather became declined. Resultantly, through instituting the instant writ petition the petitioner has brought challenge to the annexures (supra).

2. Admittedly, the suit lands were donated by one Santa Singh, Ganda Ram, and, Shri Rulia to Shri Satya Narayan Mandir, on 15.06.1954. Admittedly a mutation became also attested whereby right, title and interest over the disputed lands became conferred, upon Mandir Shri Satya Narayan. Even in the consolidation operations which were conducted, in the village *mohal* concerned, in the year 1959-60, thus the disputed lands became reserved for Mandir Shri Satya Narayan, and, thereafters corresponding entries were made in the jamabandi for the year 1961-62. A perusal of the jamabandis respectively relating to the years 1967-68 to 2001-02, reveal that in the column of ownership the name of Nagar Panchayat exists, but in the column of cultivation the temple (*supra*), is existing, but it also appears that the predecessor-in-interest of the present petitioner one Des Raj was cultivating the suit lands, as Mohtmim of the temple (*supra*). Therefore, it appears that all the interests of the minor deity inside the temple (*supra*), became taken care of by Des Raj, but as Mohtmim thereof. In the said capacity, the said Des Raj also proceeded to offer prayers to the minor deity installed inside the temple (*supra*), but as its Shehbit. Moreover, it also appears that the said Des Raj proceeded to also on behalf of the temple (*supra*), thus proceeded to make cultivations of the suit lands.

3. Through a Will made by the said Des Raj in favour of the present petitioner, he appointed him as the Mohtmim of the temple, besides also through a Will executed by the present petitioner, he proceeded to appoint his son as Mohtmim of the temple (*supra*).

4. Be that as it may, the suit claim became raised on the ground, that through his predecessor-in-interest, the present petitioner has been

making independent cultivation of the suit lands prior to 1950, and, thereby he becomes entitled to become bestowed with the beneficent grace of the apposite savings clause to the definition of *Shamlat Deh*, as carried in Section 2(g) of The Punjab Village Common Lands (Regulation) Act, 1961. The said savings clause is extracted hereinafter.

“Section 2 (g)

(viii) was Shamlat deh was assessed to land revenue and has been in the individual cultivating possession of co-shares not being in excess of their respective shares in such shamlat deh on or before the 26th January, 1950, or”

5. However, at the outset the said claim is completely mis-founded and, is to be rejected, as there is no firm documentary evidence existing on record, to succor the said claim, especially when there is no entry in the revenue records prior to 1950, wherein, the predecessor-in-interest of the present petitioner is declared rather to be holding independent cultivating possession over the suit lands, thus thereby the above made claim becomes rendered bereft of any vigor.

6. Since there is no contest with respect to the validity of the donation of the suit lands, becoming made qua the temple (supra), by the erstwhile owners, and, nor to the subsequent theretos attestation of mutation being made in favour of the temple, besides nor also to the thereafter made reservation of the suit lands, rather in the consolidation scheme, thus for the benefit of the temple (supra), but for the common users thereof by the entire village proprietary body concerned. Preeminently also there is no well laid challenge to the finalized consolidation scheme, thus at the instance of the present petitioners. The above facts are uncontested as there is no well laid

challenge to the finalized consolidation scheme at the instance of the present petitioner. Therefore, finality and conclusivity is to be assigned to the allotments made to the temple (supra), by the Consolidation Officer concerned, in his drawing the consolidation scheme, in the year 1959-60. Consequently, in derogation of the interest of the temple, neither one Des Raj as Mohmim nor the instant petitioner, who is the purported Mohtmim of the temple, thus can stake an independent right of ownership over the disputed lands.

7. In Hindu law, an idol inside a temple is a minor, and, thereovers guardianship is assumed by a Shehbit or a Mohtmim. The Shehbit or a Mohtmim of an idol inside the temple, but on behalf of the minor deity, manages, and, takes care of not only the temple, but also of the lands appurtenant to the temple. Therefore, a Shehbit or a Mohtmim, does not thereby become the owner of the lands, which he otherwise cultivates on behalf of the idol inside the temple. Resultantly, the rights of a Mohtmim or of a Shehbit of an idol inside the temple is extremely limited, to his only performing the apposite duties, thus vicariously or on behalf of the idol inside the temple, in respect whereofs he functions as a Shehbit or as a Mohtmim.

8. The concomitant corollary of the above, is that, there could be no propagation by a Mohtmim or a Shehbit of a minor deity inside the Hindu temple, qua his holding independent cultivating possession over the suit lands, as, therebys he does untenably obliterate the rights of the minor deity inside the temple, resultantly becomes dis-entitled to become invested with

right, titles, and, interests as owner of not only the temple but also of the lands appurtenant thereto.

9. The instant suit became laid by the present petitioner as Mohtmim of the temple. The *locus* of the present petitioner as Mohtmim of the temple, on whose behalf the suit became instituted, became rested on a Will executed as such in his favour by his predecessor-in-interest one Des Raj. However, during his lifetime also the present petitioner has appointed his son to, on his demise function as a Mohtmim or as a Shehbit of the minor deity inside the temple.

10. Be that as it may, it appears that in the garb of his being the Mohtmim of the temple, he proceeded to make a mis-founded claim for a declaratory decree qua the suit lands becoming pronounced in his favour. However, on a scanning of the evidence, and, thus this Court tearing apart the veil of the projection made by the petitioner qua thus in his ably functioning as a Mohtmim, of the minor deity, thus his instituting the relevant suit on behalf of the temple (*supra*), rather this Court discovers, that he is prosecuting the suit claim not for the benefit of the temple, but only for ensuring that he becomes declared as lawful owner of the temple, and, of the cultivable lands appurtenant theretos. Resultantly, thereby he appears to intend to misappropriate the offerings made at the temple, besides intends to misappropriate to himself the lands appertunant theretos. Moreover, the purported Mohtmimship or Shehbitship which the petitioner assumes over the minor deity inside the temple, is also engulfed in a cloud of doubt.

11. The reason for making the above conclusion stems, from the factum, that there is no declaratory decree made by Civil Court of competent

jurisdiction, thus declaring the present petitioner to be a Mohtmim or a Shehbit of the minor deity inside the temple, thereby there was no well *locus standi* in the present petitioner to, as a Mohtmim or a Shehbit of the temple (supra), institute a declaratory suit before the learned Collector concerned, which otherwise too, is in the guise of his rather intending to lay an untenable claim for a declaratory decree becoming assigned in his favour. Therefore, the instant petition was completely mis-constituted, and, was required to be, on the above score itself, rather dismissed at the threshold.

12. Even otherwise, as is apparent from a reading of FCR's Standing Order No.7, which becomes extracted hereinafter, and, which relates to appointment of Mohtmims, that the office of a Mohtmim or a Shehbit rather is not hereditary, but yet the learned Collector concerned, of the Revenue District, becomes empowered to sanction succession to the heirs of the deceased Mohtmim but only in terms of the grant.

“FCR's Standing Order No.7

7. Appointment of Mohtmims: Para 14 to 18 of the FCR's Standing Order No.7 deal with the question of succession in respect of Muafis.

a. Para 14- The succession is not hereditary and the terms of the Muafi indicate clearly who the successor or successors must be.

b. Para 15 - The Deputy Commissioners may sanction the succession of heirs in accordance with the terms of the grant.

c. Para 17 - In the case of assignments of land revenue released during the pleasure of the government, the Financial Commissioner, Revenue is empowered to sanction the succession of heirs to grants of the annual value of Rs.50 or less. For the grants above Rs. 50/-, proposals should be submitted through the Financial Commissioner to the

government. The cases of appointment of Mohtmims are sent to the FCR by the DC for approval under this Para. The Mohtmim of Bir Kheri Gujran Dera was appointed by the FCR under this Para in 1989.

8. *Resumption of Muafis: Para 23,24 of the Standing Order No. 7 deal with the resumption of Muafis.*

a. Para 23 Paragraphs 176 to 182 of the Land Administration Manual, which should be consulted explain the circumstances under which land revenue assignments are to be resumed. Special attention is invited to the provisions regarding assignments for the support of religious institutions, and to the breaches of the condition of loyalty and good conduct.

b. Para 24 - Financial Commissioner, Revenue has powers to resume any grant of the annual value of Rs. 50/- and less at any time if he is of the opinion that the conditions of which the grant was made are not substantially fulfilled. The proposal for resumption of any grant of which the annual value exceeds Rs. 50/- is to be submitted through the FCR for the orders of government.”

13. If so, unless there is a declaratory decree pronounced by the jurisdictionally competent Civil Court, thus declaring the present petitioner to be the Mohtmim or the Shehbit of the minor deity inside the temple (supra), thereupon the present petitioner could neither claim that, on demise of his predecessor-in-interest, who was the Mohtmim of the temple, thus he stepped into his shoes nor could he institute a suit purportedly on behalf of the temple. However, as stated (supra), no such declaratory decree has been placed on record. Moreover, there is also no order in terms of the above extracted FCR's Standing Order No.7, thus made by the District Collector concerned, whereby he declared the present petitioner to, on the demise of

his predecessor-in-interest, thus as Mohtmim or the Shehbit of the minor deity inside the temple, thereupon there was no well *locus standi* in the present petitioner to, merely upon his predecessor-in-interest, rather under a testamentary dispossession, appointing him as a Mohtmim or a Shehbit of the minor deity inside the temple, but claim that he is, as such, is a validly appointed Mohtmim, and nor he could claim that he has an able capacity to sue on behalf of the temple.

14. Be that as it may, since the Gram Panchayat concerned, is the owner of the disputed lands, which have been not contested by it to become earmarked for the Shri Satya Narayan Temple, and, earmarkings whereof are but for the benefit of the entire village proprietary body concerned. Therefore, the District Collector concerned, to ensure that there is no mismanagement of the funds of the temple (*supra*), besides to ensure that the daily rituals, and, puja thus according to Hindu texts become performed in the temple, thereby this Court directs the Collector of the Revenue District concerned, to in accordance with the relevant instructions proceed to, appoint a Mohtmim or a Shehbit of the minor deity inside the temple, so that all the daily rituals are performed in the temple, and, also to ensure that therebys the lands appurtenant to the temple are cultivated, so that the income derived therefrom, are ensured to be exclusively kept or reserved for the upkeep and maintenance of the temple, and/or for making such improvements as deemed necessary.

15. Furthermore, in the District Collector concerned, making such an appointment, he shall in the said order of appointment, encumber certain conditions, upon the appointee concerned, that in case the said conditions are

violated, thereupon it is open to the Collector of the Revenue District concerned, to proceed to rescind the appointment.

16. Be that as it may in the States of Punjab, and, Haryana there would be Muafi lands, or lands which are assigned for any particular religious communities. However, there is no well formed government machinery to streamline the able workings of such Muafi lands/Muafi properties or such like assignings made to religious communities. The lack of the above *prima facie* stems an apprehension, that not only the imperative imposed conditions vis-a-vis the Muafi lands, thus are breached, whereupons, the apposite grant(s), may thus require their rescission but also there being complete mismanagement of the Muafi lands. Moreover, it also stems an apprehension of this Court that the temples or gurdwaras or Deras functioning in the States of Punjab, and, Haryana are also misappropriating the incomes reared from such Muafi lands. In addition, this Court is led to make a genuine *prima facie* inference, that the performance of daily apposite rituals inside gurdawaras or temples, may not be so done, by those Shehbits or by those Granthis, who are appointed in accordance with the financial rules and instructions, or in terms of the relevant customs as detailed in the relevant customary laws.

17. To make proper streamlining of the above, this Court deems it fit, and, appropriate to make directions, respectively upon the Additional Chief Secretary, Revenue to the Government of Punjab, and, the Additional Chief Secretary, Revenue to the Government of Haryana, to respectively constitute a 3 member High Powered Committee to be headed by each of the above. The agenda for the High Powered Committee shall be to:

- i) Draw statistics of the grants made to the religious demoninations.
- ii) The conditions of the grant, and, whether such conditions becoming breached.
- iii) Whether upon breach of the conditions the grants have been rescinded.
- iv) Whether subsequently there is a well formed set up for regulating the able cultivations of lands, assigned as Muafis to the Hindus and Sikhs.
- v) Whether there is a regular auditing of the incomes derived from such Muafi lands.
- vi) Whether there is a well established, and, regulated system for appointment of Mohatmims or Shehbits or Granthis, or registered societies, to thus ensure the performance of daily rituals inside Sikh gurdawaras or Hindu temples, and/or to ensure upkeepings and maintenance of Sikh gurdwaras and Hindu temples, besides to ensure the well appropriations of incomes derived therefrom.

18. Since the Gram Panchayat concerned, has not contested the consolidation scheme, whereby the suit lands have been allotted to the temple, thus for the benefit of the entire village community, as such, no interference shall be made by the Gram Panchayat concerned, in the management, and, upkeeps of the Hindu temple (supra), except by the District Collector concerned, thus adhering to the above made directions.

19. Registry is directed to forward a copy of this order to the Additional Chief Secretary, Revenue to the Government of Punjab and to the Additional Chief Secretary, Revenue to the Government of Haryana.

20. Compliance affidavit vis-a-vis paragraph 17 (supra), be made through affidavits becoming sworn respectively by the Additional Chief

Secretary, Revenue to the Government of Punjab and by the Additional Chief Secretary, Revenue to the Government of Haryana. The above affidavits be tendered within 4 months. For the afore purpose, list the matter on 20.07.2024.

21. In aftermath, with the above observations, this Court finds no merit in the instant petition, and, is constrained to dismiss the same, hence the instant petition is **dismissed**, and, the impugned orders are affirmed, and, upheld.

(SURESHWAR THAKUR)
JUDGE

19.02.2024

(LALIT BATRA)
JUDGE

Ithlesh

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