



In the High Court of Punjab and Haryana, at Chandigarh

Execution First Appeal No. 8 of 2012 (O&M)

Date of Decision: 19.07.2024

Shri Thakurdwara

... Appellant(s)

Versus

Mahesh Kumar and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Ms. Bhagyashri, Advocate
for the appellant(s).

Mr. Jagdish Manchanda, Advocate
for respondent No.1 and 2.

Mr. R.S.Budhwar, Advocate
for respondent No.3.

Anil Kshetarpal, J.

1. In this Execution First Appeal, the appellant assails the correctness of the First Appellate Court's order appointing the Naib Tehsildar, Ladwa as a Receiver in order to facilitate the holding of the elections.

2. The relevant facts, in brief, are required to be noticed. On 26.04.1984, a civil suit under Section 92 of the Code of Civil Procedure, 1908 (hereinafter referred to as "CPC") was filed for removal of Ram Kishan, the alleged Khidmatgutar of Thakur Dwara located in village Niwarsi, Tehsil Ladwa, District Kurukshetra. The Additional District Judge found that Ram Kishan was treating the entire property as his personal property and directed his removal from the office of Khidmatgutar. The

plaintiffs were directed to file a scheme for appointment of a new

**Execution First Appeal No. 8 of 2012 (O&M)****2**

Manager/Khidmatgujar to look after the affairs of Thakur Dwara, a religious institution. The correctness of the aforesaid judgment was assailed in the regular first appeal as well as before the Supreme Court but in vain. Resultantly, the judgment passed on 05.08.1987 became final. However, the scheme for appointment of a new Manager remained pending. In the meantime, a Society is alleged to have been constituted for managing the affairs of Thakur Dwara. In the execution petition, the aforesaid registered Society filed objections. The Executing Court, after appreciating the facts and the development which has taken place over the years, considered it appropriate to appoint a “Naib Tehsildar” as a Receiver to ease out the process of conducting elections for the office of President, Vice-President, Secretary, Joint Secretary and Treasurer of the Society. The correctness of the said order is challenged in this appeal.

3. The learned counsel representing the appellant contends that the Executing Court has travelled beyond the scope of decree. Hence, the impugned order is unsustainable. She submits that as per the decree, Ram Kishan’s removal was ordered from the office of Khidmatgujar and the plaintiffs were directed to file scheme for appointment of a new Manager/Khidmatgujar of the religious institution.

4. Per contra, the learned counsel representing the respondents submits that the appellant has no *locus standi* because they are not a party to the litigation. They submit that in order to implement the decree, the Executing Court is required to take appropriate steps in order to protect the religious institution.

**Execution First Appeal No. 8 of 2012 (O&M)****3**

counsel representing the parties.

6. This Court has been informed that ‘Thakur Dwara’ consists of a temple with the deity of Lord Shiva and the agricultural land measuring 137 kanals and 15 marlas. Ram Kishan is managing the entire affairs through his brother-in-law and son-in-law who have created the Society after the judgment was passed by the Trial Court. For the purposes of law, the property vests in the deity. He is the juristic person. Its affairs are required to be managed with the help of human being. The Courts are required to play the role of parent to protect the interest of such institutions. The Courts have inherent power to do substantive justice while trying to follow the procedural law. It is evident that nearly 37 years have elapsed since the order of removal of Ram Kishan was passed and it has attained finality in the year 2010. Even after so many years, the matter is pending.

7. Keeping in view the aforesaid facts and discussion, this Court does not find it appropriate to interfere with the impugned order because the Executing Court has passed the same in the interest of justice in order to protect the property of the religious institute i.e. Thakur Dwara. Accordingly, the present appeal is dismissed.

8. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

July 19, 2024
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No