

104

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA-6387-2018 (O&M)
Reserved on : 10.01.2024
Date of decision : 23.01.2024

Shri Guru Granth Sahib Village Hulka, Tehsil Rajpura, ... Appellant(s)
District Patiala

Versus

Harkirat Singh ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Hitesh Kumar Sammi, Advocate for the appellant.

ALKA SARIN, J.

CM-17960-C-2018

This is an application for condonation of delay of 20 days in
refiling the appeal.

For the reasons stated in the application, delay of 20 days in
refiling the appeal is condoned. CM stands disposed off.

RSA-6387-2018

1. The present regular second appeal has been preferred by the
plaintiff-appellant against the concurrent findings returned by the Trial Court
and the First Appellate Court vide judgments and decrees dated 16.02.2015
and 05.03.2018, respectively.
2. Brief facts relevant to the present *lis* are that the plaintiff-
appellant herein filed a suit for declaration and permanent injunction on the

ground that the suit land was owned and possessed by Shri Gurdwara Sahib of village Hulka and there was a Gurdwara Sahib Welfare Society formed by the inhabitants of the village. Sucha Singh being Secretary of the Society was authorized to file the suit. It was *inter alia* averred that the defendant-respondent, who was alleging himself as Chela of Baba Daya Singh, had obtained a collusive judgment and decree dated 04.08.1993 in his favour from the Civil Court concealing the facts in order to deprive the plaintiff-appellant of its rights. It was further averred that Baba Daya Singh died on 23.03.2002 and after his death the defendant-respondent had prepared a forged and fabricated Will dated 13.06.1991 in his favour and on the basis of wrong entries in the revenue record and mutation the defendant-respondent wants to alienate the suit land to some other person. The suit was contested by the defendant-respondent who admitted the ownership of Shri Guru Granth Sahib over the suit land but alleged that he was in cultivating possession over the suit land since long and possession was delivered to him by the court after the decision of civil suits in his favour and the same was entered in the rapat roanamcha by the Patwari. It was averred that the defendant-respondent is the Mohtmim and manager of Shri Guru Granth Sahib of village Hulka and the alleged Gurudwara Sahib Welfare Society is a fictitious society and has been created just to grab the land belonging to Gurudwara Sahib. The Trial Court framed the following issues :

- (1) Whether plaintiff is entitled for declaration as prayed for ? OPP

(2) Whether the plaintiff is entitled for declaration that the judgment and decree dated 4.8.1993 passed by Sh. Ashok Kumar, the then Sub Judge IInd Class, Rajpura in civil suit no. 216-T/1993 of 4.6.1991 regarding the land titled as 'Harkirat Singh vs. Baba Daya Singh' are null and void and not binding upon the plaintiff and liable to be set aside ? OPP

(3) Whether plaintiff is entitled for permanent injunction as prayed for ? OPP

(4) Whether the suit is barred by principle of res judicata ? OPD

(5) Whether suit is not maintainable in the present form ? OPD

(6) Relief.

3. The Trial Court, on the basis of the pleadings and the evidence on the record, held that the plaintiff-appellant had failed to prove its *locus standi* to file the present suit nor any evidence was produced to show the existence of the welfare society. Accordingly, the suit was dismissed vide judgment and decree dated 16.02.2015. Aggrieved by the same, an appeal was preferred. The First Appellate Court affirmed the findings of the Trial Court and dismissed the appeal vide judgment and decree dated 05.03.2018. Hence, the present regular second appeal.

4. Learned counsel for the plaintiff-appellant has contended that the plaintiff-appellant is a registered society and had been managing the

affairs of the suit land and hence had the *locus standi* to file the present suit.

5. Heard.

6. In the present case, as far as the question of possession is concerned, the same stood decided in favour of the defendant-respondent right upto this Court in an earlier round of litigation (judgment Ex.D15). On the basis of the said judgment, a rapat roznamcha was entered on 24.05.1991 in the revenue record and possession was delivered in favour of the defendant-respondent. One more suit under Section 92 of the Code of Civil Procedure, 1908 was also filed against Baba Daya Singh which was dismissed vide judgments and decrees (Ex.D4 and Ex.D5). Both the Courts concurrently found that the society was formed in the year 2003-04 and that no proper accounts were maintained by the society. PW3-Gurnam Singh during his cross-examination had stated that for the first time the account of the society was opened in the year 2004 by investing an amount of Rs.1,000/- and for the year 2004 income and expenditure of the society were shown as NIL. The First Appellate Court found that *“Now if the said society in any manner was concerned with the suit land, then it must have proved on record all the accounts etc regarding managing of the property in question and regarding its income and expenditure but nothing cogent has been proved on record in this regard by the plaintiff society”*. Even before this Court the counsel for the plaintiff-appellant has failed to show as to how it had any right, title or interest over the suit land. The learned counsel for the plaintiff-appellant has also not been able to show an iota of evidence which would show that the society had any right or interest in the suit land. No

other point was argued.

7. In view of the above, I do not find any illegality or infirmity in the judgments and decrees passed by both the Courts. No question of law, much less any substantial question of law, arises for determination in the present case. The present regular second appeal, which is wholly devoid of any merit, is accordingly dismissed. Pending applications, if any, also stand disposed off.

23.01.2024
Yogesh Sharma

(ALKA SARIN)
JUDGE

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