

RSA-6511-2018 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA-6511-2018 (O&M)
Reserved on : 10.01.2024
Date of decision : 23.01.2024

Gurdwara Sahib Welfare Society ... Appellant(s)

Versus

Shri Guru Granth Sahib Dera and others ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

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

ALKA SARIN, J.

CM-18297-C-2018

This is an application for condonation of delay of 36 days in
refiling the appeal.

For the reasons stated in the application, delay of 36 days in
refiling the appeal is condoned. CM stands disposed off.

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1. The present regular second appeal has been preferred by the
defendant-appellant against 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, decreeing the suit of the plaintiff-respondent
Nos.1 and 2.

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2. Brief facts relevant to the present *lis* are that the suit was filed by the plaintiff-respondent Nos.1 and 2 on the ground that the suit land was owned and possessed by Guru Granth Sahab (plaintiff-respondent No.1) under the control and management of Baba Harkirat Singh and incharge of the *dera* as well as Guru Granth Sahab. Earlier Baba Daya Singh as well as his Guru was the Mohtmim and Control Manager and the suit land had been in regular cultivating possession of Baba Daya Singh. Baba Daya Singh died on 23.02.2002 and after his death Harkirat Singh (plaintiff-respondent No.2) became the Mohtmim and Manager of the land. It was further averred that earlier there was extensive civil litigation and eventually the possession of the suit land was delivered to the plaintiff-respondent Nos.1 and 2. The defendants had formed an illegal society in the village with a view to grab the suit land. The suit was contested by the defendant-appellant who stated that Gurdwara Sahib Welfare Society of Village Hulka was managing the affairs of the Gurdwara and the land. It was denied that Baba Harkirat Singh was the Mohtmim and Incharge. It was averred that there was a Gurudwara Sahib Welfare Society in village Hulka which was managing and cultivating the suit land. The plaintiff-respondent No.2 had no right, title or interest in the suit land rather he wanted to grab the suit land by stating wrong facts and the wrong entries existing in the name of Baba Daya Singh in the revenue record are liable to be corrected. It was averred that vide resolution dated 02.07.2007 Ajmer Singh had been authorized to contest the present suit. The Trial Court framed the following issues :

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

(2) Whether suit is barred by principle of estoppel ?

OPD

(3) Whether suit is liable to be rejected under order 7 rule 11 CPC ? OPD

(4) Whether the suit is liable to be stayed u/s 10 CPC ?
OPD

(5) Whether the suit is barred by principle of resjudicata ? OPD

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

(7) Relief.

3. The Trial Court, on the basis of the pleadings and the evidence on the record, decreed the suit vide judgment and decree dated 16.02.2015. Aggrieved of the same, an appeal was preferred by the defendant-appellant which appeal was also dismissed by the First Appellate Court vide judgment and decree dated 05.03.2018. Hence, the present regular second appeal.

4. Learned counsel for the defendant-appellant has contended that the impugned judgements and decrees are illegal and erroneous and that the society is the owner in possession of the suit land and that the injunction has wrongly been granted in favour of the plaintiff-respondent Nos.1 and 2. It was argued that the plaintiff-respondent Nos.1 and 2 want to grab the suit land.

5. I have heard the learned counsel for the defendant-appellant.

6. In the present case both the Courts below have concurrently found that as per the revenue record earlier Baba Daya Singh was the

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Mohtim and after his death Harkirat Singh (plaintiff-respondent No.2) became Mohtim and Manager. The possession of the suit land was delivered to Harkirat Singh (plaintiff-respondent No.2) after prolonged litigation and an entry in the *rapat roznamcha* was made on 24.05.1991 and was incorporated in the revenue record. Even the defendant-appellant had admitted that the name of the plaintiff-respondent was reflected in the revenue record. The learned counsel for the defendant-appellant has not been able to convince this Court nor show any evidence on the record to prove the possession of the defendant-appellant over the suit land. There is no document on record that on the date of institution of the suit the defendant-appellant was in possession of the suit land. No other point has been 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