

119 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-2219-2019 (O&M)

Date of decision : 24.07.2024

HARI DASS CHELA VIRNDAVAN

....Appellant

Versus

MUNICIPAL CORPORATION FARIDABAD AND ANR ...Respondents

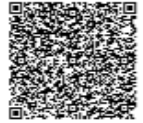
CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. G.C. Shahpuri, Advocate
for the appellant.

PANKAJ JAIN, J. (ORAL)

Plaintiff is in second appeal.

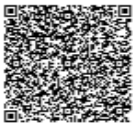
2. Plaintiff filed suit seeking decree of declaration along with consequential relief of permanent injunction claiming that the entries in column No.5 of *jamabandi* in respect of the suit land being Khasra No.98 (2-0) Gair Mumkin land/Mandir, situated at Village Ajronda, Tehsil and District Faridabad in the year 1954-55, 1958-59, 1967-68, 1972-73 are wrong and incorrect and not binding upon the plaintiff and his predecessor and the name of Bhagwan Dass has been wrongly recorded in *jamabandi* for the year 1992-93, 1997-98 which is liable to be corrected as Ganga Dass. Further prayer was that the name of Vrindavan Dass Chela Ganga Dass Bhondedar may kindly be ordered to be corrected in place of *Makmuja Ahle Hanood*.



3. The pleaded case of the plaintiff was that Vrindavan Dass Chela Ganga Dass was in actual physical exclusive possession of the suit property as Bhondedar. However, in column No.5 *Makmuja Ahle Hanood* has been wrongly recorded. The said mistake needs to be corrected. Further reliance is being placed by the plaintiff on judgment and decree passed in suit for declaration bearing Civil Suit No.No.49 of 08.04.1983 titled as 'Hari Dass vs. FCA Faridabad' decided vide judgment and decree dated 18th of December, 1985 (Ex. P-1 and Ex.P-2) which was initially dismissed but later on in appeal the suit was decreed vide judgment and decree dated 26th of April, 1986 (Ex.P-48) and it was declared that the plaintiff is *Mahant* and Manager of the temple and is in possession of the property as *Khidmadgar*.

4. Ld. Courts below after analysing the evidence on record came to the conclusion that the claim of the plaintiff as Bhondedar already stands adjudicated upon in the earlier suit wherein specific finding has been recorded to the effect that he is merely a Khidmadgar of the temple and not Bhondedar. So far as the entries of *Ahle Hanood* is concerned, the same having been held to be not binding on the rights of the plaintiff in the earlier suit, the same shall abide by the earlier decree.

5. Counsel for the plaintiff while assailing the judgment and decree passed by both the Courts below dismissing the suit, claims that once the entries in Column No.5 were earlier held to be bad and not binding on the rights of the plaintiff, he ought to have been recorded as Bhondedar.



6. On being specifically asked, Mr. Shahpuri is not in position to dispute that the plaintiff in earlier round also asserted his title as Bhondedar but was merely held to be a Khidmadgar i.e. the Manager of the temple. The said *lis* attained finality and no challenge was laid to the judgment and decree dated 26th of April, 1986 placed on record as Annexure P-48 by the plaintiff himself.
7. It seems that on the dint of Haryana Dholidar, Butimaar, Bhondedar and Muqararidar (Vesting of Proprietary Rights) Act, 2010 wherein the State decided to vest the title in Bhondedar, plaintiff has tried second time in this *lis* to claim his title as Bhondedar. Admittedly, the precise issue stands decided between the same parties in the earlier *lis* and thus Courts below have rightly held that the issue raised by the plaintiff in the present suit was barred by *res judicata* and non-suited the plaintiff.
8. In view of above, this Court does not find any reason to interfere in the present appeal. Resultantly, the same is dismissed.

July 24, 2024	(Pankaj Jain)
Dpr	Judge
Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No