

**IN THE HIGH Court OF PUNJAB AND HARYANA AT CHANDIGARH****115****RSA-2052-1991 (O&M)****Date of decision: 08.04.2025****Baba Jagdish Nath Chela Mahant Prabu Nath
and Mahant, Gaddi Dera Nath Darshani Yogi,
Karnal (deceased) through his LRs****...Appellant(s)****Vs.****The State of Haryana through the Collector,
Karnal and others****..Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA****Present:- Mr. R.S.Kundu, Advocate for the appellant.****Mr. Dushyant Saharan, A.A.G., Haryana.***********NIDHI GUPTA, J.**

The plaintiff is in second appeal against the concurrent judgments and decrees of the Id. Courts below, whereby the suit for declaration filed by the appellant has been dismissed.

2. The parties shall hereinafter be referred to as per their status before the learned trial Court i.e. the appellant is the 'plaintiff'; and respondents are the 'defendants'.

3. The brief facts of the case as pleaded in the plaint are that the plaintiff is a Chela of Kedar Nath and grand-Chela of Mahant Prabhu Nath. The plaintiff was inducted as Chela by Kedar Nath in April 1937. Prabhu Nath died in the year 1944 and the plaintiff is now looking after the Gaddi and the property attached to the Dera and now he has been elevated to the status of Mahant. The land was earlier owned by Prabhu Nath and now is to



be owned by the present plaintiff. The mutation No. 306 was attested on 16.12.44 in the name of Samadh Baba Mangal Nath. But this document is a merely waste document and does not confer any title because a Samadh cannot be successor of the Guru. Prabhu Nath has got no Chela except the plaintiff. Moreover, Bheekh ceremony was also held on 12.3.1978 and the plaintiff was duly confirmed as Mahant of this Dera. The plaintiff has challenged the earlier mutation, which has not been corrected by the Assistant Collector IInd Grade. Hence, the present suit was filed on 21.02.1983.

4. The suit was contested by the official defendants no. 1 to 3 *inter alia* on the ground that suit is time barred; civil court has no jurisdiction; that there is no proof on the file that the plaintiff is the grand-Chela of Prabhu Nath. The land was mutated in the name of samadh as per the record; Mohatmin/Manager cannot be considered as owner of the property, and therefore, he is not entitled to any right over the disputed property. Accordingly, dismissal of the suit was prayed for.

5. An application under Order 1 Rule 10 CPC was moved by respondents/defendants No.4 to 13 which was allowed vide order dated 04.05.1987; and the said respondents were arrayed as defendants No.4 to 13 as parties. They also filed written statement taking preliminary objections of locus standi, maintainability, limitation, joinder of the parties and want of valid notice. On merits there was denial of all averments made in the plaint, and it was only admitted that Parbhu Nath was Mahant of this



Dera and that his name still continues in Girdawri entries. They sought dismissal of the suit.

6. On the basis of the pleadings of the parties, following issues were framed on 19.9.1983: -

“1) Whether the plaintiff is the grand-Chela of Mahant Prabhu Nath, as alleged, if so to what effect? OPP

2) Whether the plaintiff is the successor in interest of Mahant Prabhu Nath? OPP

3) Whether the plaintiff has become owner in possession of the suit property on the grounds mentioned in the plaint ? OPP

4) Whether the suit is barred by time ? OPD

5) Whether the plaintiff has no locus standi ? OPD

6) Whether the plaintiff is estopped from filing the suit? OPD

7) Whether the suit is not properly valued for purposes of court fee and jurisdiction? OPD

8) Relief.”

7. Upon appraisal of the pleadings and the evidence led by the parties, the Id. trial Court decided issues No. 1 to 3 in favour of the defendants and against the plaintiff; issue No. 4 in favour of the defendants and against the plaintiff; issues No.5 to 7 against the defendants as unpressed; and accordingly, vide judgment and decree dated 31.07.1989, the learned trial Court dismissed the suit of the plaintiff with costs. The appeal filed by the plaintiff was dismissed by the learned Additional District Judge, Karnal vide judgment and decree dated 13.08.1991. Hence, the present second appeal.

8. Learned counsel for the appellant/plaintiff *inter alia* submits that the learned lower Courts below were in patent error in non-suiting the



plaintiff as it has been proved on record that after the death of Prabhu Nath in 1944, the plaintiff had become the Mahant of the Dera as he was inducted as Chela of Prabhu Nath by Kidar Nath. As such, plaintiff was looking after the gaddi. Prabhu Nath expired on 16.04.1944. However, this fact was not incorporated in the relevant jamabandi and accordingly in the column of ownership, name of Mahant Prabhu Nath still continues. Mutation No. 306 was attested on 16.12.1944 in the name of Samad Baba Mangal Nath Sahib regarding the succession of Prabhu Nath but the said mutation was never incorporated in the jamabandi. However, the learned Courts below have failed to appreciate that the Samad develops from Guru to Chela and Samad cannot be the successor of the Guru. The plaintiff being the only Chela of Prabhu Nath was entitled to gaddi and, therefore, he should have been shown as Mahant in the revenue record. In any event in the year 1978 on the Bheekh ceremony, the plaintiff was confirmed as Mahant Yogi of the Dera. As such, plaintiff is entitled to get the mutation attested in his favour and get his name incorporated in the revenue record as Mahant of the Dera. The plaintiff had duly moved an application before the revenue authorities and mutation No. 1144 was presented by the Patwari before the Assistant Collector 2nd Grade, who refused to attest the same on the ground that there is already a mutation No. 306 dated 16.12.1994; wherein the succession of Prabhu Nath has been entered in the name of Samad; and therefore, no new mutation can be attested in favour of the plaintiff unless the previous mutation is set aside. The Assistant Collector 2nd Grade vide order dated 08.11.1982 had directed the plaintiff to



seek a declaration from the Civil Court in this behalf; whereupon the plaintiff had immediately filed a civil suit on 21.02.1983. It is submitted that therefore, the learned Courts below are in patent error in holding that suit was time barred.

9. Learned counsel further submits that the plea of the defendants that mutation No. 306 was correct and had become final as no challenge was laid thereto, is misplaced. It is submitted that the revenue record shows plaintiff to be the Manager. It is submitted that it has been shown on record that the mutation could not be altered because the same had been incorrectly sanctioned in the name of Samad Bana Mangal Nath Sahib. It is contended that the learned Courts below have erroneously held that mutation No. 306 to be in accordance with law. While failing to appreciate that in the Bheekh ceremony performed in the year 1978 in the presence of Yogis, Sadhu and Mahants of the Dera, the plaintiff had been elevated as Mahant of the Dera. It is contended that the learned Courts below failed to appreciate that after the death of Prabhu Nath, the plaintiff had gone for pilgrimage from where he returned in the year 1958. As such, mutation, after the death of his Guru, could not be incorporated in his favour. It is submitted that the revenue record indicates that the plaintiff was the Manager of the property. As such, plaintiff was entitled to the decree as prayed for. Moreover, the plaintiff being the grand Chela of Mahant Prabhu Nath is entitled to the estate in dispute being his successor in interest of Mahant Prabhu Nath and therefore, the owner in possession of the suit property.



10. In support of his contention, learned counsel for the appellant/plaintiff has placed reliance upon the following judgments:-

1. *Sital Das vs. Sant Ram and others*, AIR 1654 S.C. 606 (Vol. 41, C.N. 141);
2. *Baba Kartar Singh Bedi vs. Dayal Das and others* AIR 1939 Privy Council 201;
3. *Radha Krishna Ashtapit Thakurdawara vs. Mt. Maharaj Kunwar and others* AIR 1937 Oudh 69; and
4. *Sain Maule Shah vs. Ghane Shah and others* AIR 1938 Privy Council 202

11. It is accordingly prayed that the present appeal be allowed; and the impugned judgments and decrees of the Id. Courts below be set aside.

12. Learned counsel for the respondent-State opposes the prayer made on behalf of the plaintiff and submits that the concurrent findings have been returned by both the Courts below by citing cogent reasons. The said findings of fact cannot be disturbed. He accordingly prays for dismissal of the appeal.

13. No other argument is raised on behalf of the parties.

14. I have heard learned counsel for the parties and perused the case file in great detail.

15. I find no merit in the submissions advanced on behalf of the plaintiff. It has come in the written statement of the official respondents/defendants No.1 to 3/ the State that after the death of Mahant Bhajan Nath, Baba Itwar Nath has been shown as owner of the land measuring 243 K – 19 M in village Raison where the Dera is situated. After



the death of Itwar Nath his chela Parbhu Nath became the owner of the suit land vide mutation No.180 dated 15.10.1932. Further in para No.7 of the said written statement it is admitted that the name of Prabhu Nath is still continuing in the column of ownership; and in para No.8 they averred that the land in question was mutated in favour of Smadh Baba Mangal Nath Sahab vide mutation No.306 dated 16.12.1944. It is further averred plaintiff has been shown to be the Mohatmim of the land in question. However, they denied his status as that of Mahantship or proprietorship.

16. A perusal of the record further shows that although the plaintiff had examined a number of witnesses to prove that he was adopted as Chela in the year 1937, however no documentary proof whatsoever of the said alleged adoption was produced by the plaintiff in support of the said averments. Furthermore, it is the own case of the plaintiff that Prabhu Nath had died in 1944. Yet mutation of the estate of Prabhu Nath was not sanctioned in favour of the plaintiff. However, the Bheekh ceremony elevating the plaintiff as Mahant was performed 34 years thereafter, only in the year 1978. At the time of Bheekh ceremony, plaintiff was having no Guru. Admittedly, till 1978 plaintiff had made no efforts to get the revenue entries corrected. To explain this delay, it has been submitted by the plaintiff that he had gone on a pilgrimage and returned only in the year 1958 and therefore, the mutation could not be sanctioned in his favour. However, the said assertion is not backed by any proof whatsoever as there is no evidence that the plaintiff was on pilgrimage for 14 years and had returned only in the year 1958. It would therefore appear that the order



dated 08.11.1982 Ex. D3 rejecting the mutation, which was got entered on the oral statement of the plaintiff, was a step initiated by the plaintiff to create evidence in his favour. Otherwise, there is no explanation as to why till 1982 for over 24 years since 1958, the plaintiff did not make any effort to get the revenue entries corrected.

17. Even otherwise, even the Bheekh ceremony itself is surrounded in suspicious circumstances as there are different versions of the same given by the plaintiff witnesses. For instance, as per the plaintiff, he was given Rs.500/- by the villagers in the said ceremony; whereas as per Bahi Ex.PW6/2 Rs.505/- was given to the plaintiff; whereas as per PW2 Rs.100/- was paid to the plaintiff during the ceremony.

18. From the above facts, it would also appear that Prabhu Nath died without any Chela. Admittedly, Prabhu Nath had not executed any Will. Prabhu Nath had not nominated the plaintiff as Chela and, therefore, 34 years after the death of Prabhu Nath, the plaintiff had convened the Bheekh ceremony in 1978 to create evidence in his favour. As such, plaintiff cannot derive any benefit even from Bheekh ceremony. At the risk of repetition, it is pointed out that mutation was rejected on 08.11.1982 which was entered on oral statement of the plaintiff. Therefore, for 24 years after claiming to have returned from pilgrimage, no effort was made by the plaintiff to get the revenue entry corrected. Even otherwise, the plaintiff was only the Manager and not the Mahant or owner of the Dera. The argument of the plaintiff that Manager is also the Dera Mahant is misconceived.



19. The plaintiff can derive no benefit from the relied-upon judgments as the same are distinguishable on law and facts *in-as-much* as in the said cases, there was no dispute with regard to identity of the Mahant of the Math/Dera; whereas in the present case, it is not established that the plaintiff was Mahant of the Dera. In fact, even it is not established that the plaintiff was Chela, let alone Mahant.
20. Learned counsel for the appellant/plaintiff is unable to dispute or controvert the above said facts and findings.
21. In view of the above, the present second regular appeal is **dismissed.**
22. Pending applications, if any, stand disposed of.

08.04.2025
Divyanshi

(NIDHI GUPTA)
JUDGE

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