

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

117

I. RSA-1346-2025 (O&M)

Vinod Kumar and OthersAppellants

Vs.

Shyam Sunder Dass Chela Prayag Dass and OthersRespondents

II. RSA-4464-2025 (O&M)

Kuldeep Singh and OthersAppellants

Vs.

Shyam Sunder Dass Chela Prayag Dass and OthersRespondents

Date of Decision.:19.02.2026

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Harsh Rana, Advocate and
Mr. Anil Kumar Rana, Advocate for the
appellants in RSA-1346-2025.

Mr. Tarunveer Vashisht, Advocate for the
appellants in RSA-4464-2025.

Mr. Satyaveer Singh, Advocate,
Mr. Abhyudaya Paliwal, Advocate for
the respondents.

DEEPAK GUPTA, J. (ORAL)

Both these appeals have arisen against same judgment and decrees passed by the Courts below. Suit for decree of permanent injunction regarding property in dispute filed by plaintiffs Shyam Sunder Dass Chela Prayag Dass and Others (*respondent Nos.1 to 3 herein*) was decreed by the trial Court on 30.11.2018. Appeals filed by some of the



defendants was dismissed by the first Appellate Court on 19.12.2024, thus affirming the findings of the trial Court.

2. Against the aforesaid concurrent findings, different set of defendants, have filed the present appeals.

3. The contention raised by learned counsel for the appellants is that Courts below erred in appreciating the evidence correctly; and that conferring of the Mahantship in favour of respondent No.1 Shyam Sunder Dass was not proved.

4. The plaintiffs had instituted the suit asserting that the suit property measuring about 77 Kanals 13 Marlas forms part of the religious endowment of Thakurdawara Thambar. The case of the plaintiffs is that the then Mahant, Prayag Dass Chela Mathura Dass, executed a registered Will dated 29.05.1989 appointing plaintiff No.1 and his brother as successors to manage the institution and its properties. After the death of the Mahant on 22.05.1992, plaintiff No.1 succeeded to the Mahantship and continued in management and possession of the endowment property. It was further pleaded that earlier litigation between the parties resulted in a decree dated 28.07.2007 recognizing the plaintiffs possession, which stood affirmed in appeal on 19.03.2009. Despite such adjudication, the defendants allegedly attempted forcible dispossession, leading to the filing of the present suit.

5. The defendants resisted the suit by asserting that the property belongs to Patti Peepal wali of village Thambar and that the villagers were using the land for Gaushala purposes and fodder cultivation. The plaintiffs title and possession were denied.

6. After appreciating the evidence led by the parties, both the Courts below concurrently held that the plaintiffs were in settled possession and decreed the suit.

7. Assailing the concurrent findings, learned counsel for the



appellants contends that the findings of the Courts below are perverse and based on misreading of evidence; that the property is village common land belonging to proprietors and not to the religious institution; that villagers are running a Gaushala over the property demonstrating their possession; that earlier decree does not bind the appellants; and that injunction could not be granted without declaration of title.

8. *Per contra*, learned counsel for the respondents-caveators submits that revenue record consistently reflects the Thakurdwara and its Mohatmim in possession; that Mahantship succession through Will and customary practice stands proved; that earlier litigation corroborates possession; that defendants produced no documentary evidence regarding their possession; and that concurrent findings cannot be disturbed in second appeal.

9. Heard. The jurisdiction of this Court under Section 100 CPC is confined to substantial questions of law. The Hon'ble Supreme Court in ***Kondiba Dagadu Kadam v. Savitribai Sopan Gujar, (1999) 3 SCC 722***, and ***Gurdev Kaur v. Kaki, (2007) 1 SCC 546***, has held that concurrent findings of fact cannot be interfered with unless shown to be perverse or based on no evidence. Further, re-appreciation of evidence is impermissible in second appeal.

10. It is noticed that the Courts below relied upon Jamabandi and Khasra Girdawari entries consistently reflecting the Thakurdwara and its Mohatmim as owner in possession. Such entries carry a presumption of correctness under revenue law and can be displaced only by cogent documentary evidence. The defendants failed to produce any revenue or title record supporting their plea of proprietary possession. Their case rests primarily on oral assertions regarding use of Gaushala, which cannot dislodge documentary entries. The findings based on documentary evidence cannot be interfered with in second appeal unless shown to be

legally unsustainable.

11. Further, the material on record demonstrates succession of plaintiff No.1 as Mohatmim through Will and customary practice. It is settled that property dedicated to a religious institution vests in the institution itself and the Mahant is only a manager or custodian.

12. The Supreme Court in ***Radhakanta Deb v. Commissioner of Hindu Religious Endowments, AIR 1981 SC 798***, recognized that properties attached to religious institutions retain the character of endowment property and cannot be treated as private or village property merely because villagers participate in religious activities.

13. Thus, the plea of village proprietorship cannot defeat the character of endowed property unless dedication itself is disproved, which has not been done.

14. The defendant's principal argument rests on the alleged running of a Gaushala. However, permissive or charitable user does not translate into ownership or possessory title. The Supreme Court has consistently held that permissive use or community benefit does not divest the endowment of its legal character nor confers any proprietary right upon users. A Gaushala functioning over religious land, without proof of dedication of land to the village community, at best indicates permissive use and not hostile possession. No plea or proof of adverse possession was either properly pleaded or established. Therefore, the Gaushala argument is legally insufficient to displace the plaintiffs possession.

15. Still further, earlier decrees of 2007 & 2009 recognizing the plaintiffs possession, though not strictly res judicata against all defendants, constitute strong corroborative evidence regarding the nature of possession and the status of the institution. The Courts below were justified in placing reliance on such adjudication.



16. It is settled that a person in settled possession is entitled to protect such possession against forcible dispossession even against the true owner. Where possession is established and threat of dispossession exists, a suit for injunction is maintainable without seeking declaration.
17. Thus, the concurrent finding of settled possession fully justified the grant of injunction.
18. The controversy raised by the appellants relates purely to appreciation of evidence regarding possession and nature of property. The findings recorded by both Courts below are based on documentary evidence; supported by settled legal principles; and are neither perverse nor suffering from misapplication of law. No substantial question of law arises for determination.
19. Consequently, it is held that the concurrent judgments and decrees passed by the Courts below are well reasoned and do not suffer from any perversity, illegality, or jurisdictional error. Accordingly, the present Regular Second Appeals are dismissed. Pending applications, if any, also stand disposed of.

A photocopy of this order be placed on the connected case file.

(DEEPAK GUPTA)
JUDGE

February 19, 2026

Neetika Tuteja

Whether Speaking/reasoned	Yes
Whether Reportable	Yes