

(2016) 08 P&H CK 0034
In the Punjab And Haryana At Chandigarh
Case No : RSA No.490 of 2012 (O&M)

Avtar Singh

APPELLANT

Vs

Guru Ravi Dass Bhagat

RESPONDENT

Date of Decision : 10-08-2016

Acts Referred:

Citation : (2017) 1 PLR 332

Hon'ble Judges : Mr. Amit Rawal, J.

Bench : Single Bench

Advocate : Mr. M.S. Longia, Advocate, for the Appellants; Mr. B.S. Sewak, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Amit Rawal, J.(Oral) - CM No. 1335-C of 2012

For the reasons stated in the application, which is duly supported by an affidavit, delay of 28 days in filing of the present appeal is condoned.

Application stands allowed.

CM No. 1337-C of 2012

For the reasons stated in the application, which is duly supported by an affidavit, delay of 11 days in refiling of the present appeal is condoned.

Application stands allowed.

Main Case

The appellants-defendants are aggrieved of the concurrent findings of fact, whereby suit of the respondents was partly decreed to the extent that they are declared owner of the suit property and held entitled to recover back possession of the suit property with further direction to surrender the vacant possession in favour of Gurdwara Sahib after removing their illegal structures existing therein

and further restraint from disposing of or dealing with the property in any manner and recovery of mense profit, was rejected.

2. Mr. M.S. Longia, learned counsel appearing on behalf of appellants, submits that suit was filed by Sewadars namely Giani Jagtar Singh and Surjan Singh on behalf of Gurdwara Ravi Dass Bhagat, Hirdapur, Tehsil and District Ropar alleging that the property measuring 1 biswa out of 10 biswa was gifted by Jatinder Singh vide registered Gift Deed dated 29.10.2003 to the Gurdwara Sahib. Relief aforementioned could not have been espoused by the Sewadar in view of the existence of the Managing Committee. The locus standi of the Sewadar was seriously objected to but the same has been negated. It is in this backdrop of the matter, the present regular second appeal has been filed.

3. Mr. B.S. Sewak, learned counsel appearing on behalf of Gurdwara Sahib submits that aforementioned Gift Deed Ex.PW3/A has been proved and as a consequential effect, mutation bearing No.801 was also sanctioned. The appellants-defendants had taken the defence that the predecessors has been in continuous possession for the last 60 years and also set up one compromise deed dated 12.11.2003. Even Sewadar espoused the cause, thus, there is no illegality and perversity.

4. Mr. Longia, in rebuttal submits that DW5 President of the Managing Committee appeared and stated that no resolution was executed in favour of the respondent-plaintiff to institute the suit.

5. I have heard learned counsel for the parties and appraised the paper book.

6. The fact remains that aforementioned property is under the ownership of the Gurdwara as it has been proved through registered Gift Deed dated 29.10.2003 Ex.PW3/A. The factum of the possession of the appellants-defendants has also been proved and rightly so, the Courts below have ordered for handing over the possession. The defendants being illegal occupant of the land which belong to the Gurdwara Sahib cannot be permitted to raise the issue/objection regarding locus standi. In fact Gurdwara Sahib is a religious body. It is settled law that any devotee or Sewadar can espouse the cause. In my view the plea of the locus standi is neither here and there. Once the Gurdwara Sahib has been held to be owner, consequently relief of possession and restraint order in my view is perfect, legal and justified as is based on the preponderance of the evidence.

7. In view of the aforementioned observations, I do not find any illegality and perversity.

No ground for interference is made out.

Dismissed.