

**(1998) 11 P&H CK 0123**

**In the Punjab And Haryana At Chandigarh**

**Case No :** Regular Second Appeal No. 2893 of 1998

Gurdwara Sahib

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

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**Date of Decision :** 19-11-1998

**Acts Referred:**

**Citation :** (1999) 121 PLR 381 : (1999) 2 RCR(Civil) 565

**Hon'ble Judges :** Swatanter Kumar, J

**Bench :** Single Bench

**Advocate :** Gurdev Singh, for the Appellant;

**Final Decision :** Dismissed

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## **Judgement**

Swatanter Kumar, J.—Plaintiff-appellant had filed a suit for declaration that he is owner in possession of the suit land and further with a prayer for permanent injunction for restraining the defendants from interfering in his actual peaceful possession. The suit was filed on behalf of Gurdwara Sahib through its President. The learned trial court vide its detailed well reasoned judgment dismissed the suit of the plaintiff vide judgment and decree dated 10.5.1996. While affirming the findings arrived at by the learned trial Court, the learned First Appellate Court in its judgment dated 25.7.1998, while dismissing the appeal, recorded the followings :-

"From the documents Ex.P9 and Ex.P.10 it is only proved that land measuring 1 kanal 19 marlas was reserved for Gurdwara at the time of consolidation. There is no evidence to the effect that the land in question was actually given to the Gurudwara by the Gram Panchayat under the aforesaid reservation. The subsequent record mentions the panchayat deh to be owner as well as in possession of the suit land. This shows that the land was though reserved for Gurdwara, it was never occupied by Gurudwara."

"Even if the report in question is taken out of consideration, the plaintiff is not proved to be owner of the suit land. The allegations in the plaint that the plaintiff

planted the trees in the suit land is a very vague allegation. Plaintiff is Gurudwara Sahib village Kapuri Kalan and Khayali Singh cannot be believed to be its president on the date of planting of the tree standing on other suit land. Moreover, he cannot be said to be plaintiff of this suit. Who planted these trees is not pleaded in the plaint. The presence of room in the land in question and the same being in possession of the school is not disputed before me and this shows that the land in question is in possession of the school. There is nothing before me to show that the panchayat is not authorised to change the reservation because the land still vested in the panchayat deh."

2. While challenging the above concurrent findings of facts the learned counsel for the appellant referred to the judgment of the Hon"ble Supreme Court of India in the case of Durga (deceased) and Ors. v. Milkhi Ram and Ors. 1969 P.L.J. 105 to stress that presumption of correctness attached to revenue entries is rebuttable one and if such entries are altered without any proper reason, presumption would stand rebutted. As far as the proposition of law is concerned, there could hardly be any dispute, but the fact remains that it was the bounden duty of the appellant to bring cogent and proper evidence on record to show that entries in the revenue record were not supported by any proper documents. As already noticed it was even admitted that there is no structure of the Gurdawara on the land in question neither there was any cogent or reliable evidence brought before the Court which could show that the present appellants were in actual physical possession of the property in question. Once a concurrent finding of fact is arrived at by the learned courts below that the appellants were not in possession of the suit land, the jurisdiction of this court to interfere in this finding of fact would be obviously a very limited one. The only exception would be that the findings arrived at by the learned Courts below are totally perverse or based on no evidence whatsoever. None of these conditions are satisfied in the present case. The onus to prove its case was entirely upon the plaintiff-appellant, which he has failed. The judgment in Durga's case (supra) can be of no help to the present appellant.

3. I am unable to see any legal or other infirmity in the impugned judgments, which would call for any interference by this court in the regular second appeal. Consequently, the appeal is dismissed in limine, though without any order as to costs.