

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**RFA No. 77 of 2017****Reserved on: 28.07.2026****Decided on: 11.08.2026****Date of uploading on website:
11.08.2026**

Baba Gurmukh Dass (deceased) through Baba Ram Tahal
Dass

....Appellants

Versus

State of H.P.

...Respondent

Coram

The Hon'ble Mr. Justice Sushil Kukreja, Judge.

Whether approved for reporting?¹

For the appellants : Mr. Sanjeev Kuthiala, Senior
Advocate with Ms. Tamanna
Sharma, Advocate.

For the respondent : Mr. Balvinder Singh, Deputy
Advocate General.

Sushil Kukreja, Judge

The present appeal under Section 96 of the Code
of Civil Procedure, against the award dated 01.12.2016,
passed by learned District Judge, Solan, H.P., in Reference

1 Whether reporters of Local Papers may be allowed to see the judgment?

Petition No. 3-NL/4 of 2010, whereby petition filed by the petitioner was dismissed.

2. Brief facts of the case are that learned Court below received reference petition under Section 30 of the Land Acquisition Act (for short "the Act") on the averments that piece of land comprising Khata/Khatauni No. 115/139 and 274/312, Khasra No. 181, 183/1 and 180, measuring 8-0 bighas, situated in revenue estate Nawagroan, HB No. 55, Pargana Plassi, Tehsil Nalagarh, which was owned by Baba Gurmukh Dass (since deceased), has been acquired, wherein, total compensation of Rs. 56,00,000/- has been awarded by Land Acquisition Collector. It has been further averred that respondent No. 1, Sant Ram has made a request not to make payment of the said amount of compensation to any person except himself being Secretary of the Sanatan Dharam Ram Mandir Society, Nawagroan, whereas, one Tehal Dass Mohtim of Sanatan Dharam Ram Mandir Nawagroan has also requested to make payment of compensation to him being chela of the deceased Baba Gurmukh Dass. Tehsildar Nalagarh vide letter dated

26.08.2009 also requested not to make payment to Tehal Dass as inheritance mutation of the deceased Baba Gurmukh Dass was pending before him and there were chances that the property in the name of said baba might be escheated in favour of State Government.

3. On receipt of aforesaid reference, notices were issued to the respondents and the petitioner/claimant filed reply to the objection filed by respondent No. 1 before the Land Acquisition Collector, Nalagarh, wherein, it has been averred that objector has claimed himself to be Secretary of Sanatan Dharam Mandir Society and the objector Sant Ram or the alleged Sanatan Dharam Mandir Society, Nawagroan has no concern whatsoever with the land which was acquired and purchased by Baba Gurmukh Dass, Chela Baba Ramsur Dass with his own funds in his own name and the said Baba Gurmukh Dass remained absolute owner of the said acquired land during his life time, which was installed by his Guru Baba Ramsur Dass for his worship and he remained Mahant of this Dera/Math during his life time. It has been further averred that Baba Ramsur Dass appointed

Baba Gurmukh Dass as his chela and after death of Baba Ramsur Dass, Baba Gurmukh Dass occupied Mahantship of this Math/Dera and tradition of this Dera was that only a bachelor Sanyasi could become the Mahant of the Dera/Math, which was a religious institution. It has been further averred that Baba Gurmukh during his life time on 27.02.1997 appointed the claimant as his Chela to acquire Mahantship of this Dera in a religious ceremony which was performed amongst Sanyasi community as well as the local inhabitants and the claimant remained bachelor throughout his life and acquired Mahantship being Chela of Baba Gurmukh Dass after his death. It has further been averred that some property of this Dera known as Ram Mandir Samadh Shri Ram Dassji Maharaj was in the name of Dera. However, the property purchased by Baba Gurmukh Dass in his personal name has been inherited by claimant/petitioner being Chela of the previous owner. It has further been averred that Baba Gurmukh Dass remained unmarried throughout his life and was Sanyasi who had severed his worldly relations with his relatives when he entered into life of

sanyasi and personal property of Sanyasi goes to his Chela and the petitioner being Chela/virtuous disciple had inherited personal property of Baba Gurmukh Dass including acquired land after his death, as he died on 3.01.2005 and notification under Section 4 of the Act was issued on 27.06.2008 and at that time, claimant/petitioner was owner of the acquired land. It has been further averred that objections, so filed, are false and frivolous and Math is being managed by claimant/petitioner and there is no Committee and no other person has a right to interfere in the religious affairs of the Math which is a private religious institution. It has been further averred that the petitioner has also filed a petition under section 370/372 of Indian Succession Act for grant of succession certificate which is pending in the Court of Civil Judge (Sr. Division), Nalagarh.

4. The respondent No. 2/State also filed reply, wherein, it has been stated that Land Acquisition Collector vide award No. 03/2008, dated 25.03.2009 has acquired the land in question and granted compensation of Rs. 56,00,000/-. It has been further averred that Baba Tehal

Dass has been appointed as Mohatmim only of Smadhi of Baba Ram Surdass after the death of Baba Gurmukh Dass, i.e. on 03.01.2005, however, he has no concern with the land in question and his claim for payment of amount being Chela of deceased Gurmukh Dass is wrong. It has been further averred that inheritance mutation of Baba Gurmukh Dass is still pending and there is likelihood that the property may be escheated in favour of State of H.P., as no Will or gift has been executed in his favour and there is also no legal heir of Baba Gurmukh Dass. It has also been averred that the claim of respondent No. 1 is also not correct as he has no concern whatsoever with the land in question and is not legal heir of Baba Gurmukh Dass and no Will or gift has been executed in his favour.

5. From the pleadings of the parties following issues were framed on 07.06.2011:-

“(1) Whether Tehal Dass is Mahant of S.D. Ram Mandir Nawagroan and is the legal Chela of deceased Baba Gurmukh Dass and thus he is entitled to the compensation amount, as alleged?OPC

(2) Whether respondent No. 1 is entitled to the compensation amount being Secretary of Sanatan Dharam Ram Mandir Society, Nawagroan? OPR-1

(3) Whether the claimant is not possessing the necessary qualification for becoming Chela of late Shri Gurmukh Dass, as alleged? OPR-1

(4) Whether there is public trust in existence and claimant wants to grab the trust property, as alleged? OPR-1

(5) Whether the property is in the name of Baba Gurmukh Dass has to be escheated in favour of the State of H.P. as Tehal Dass Mohatmim is also non agriculturist of State of H.P. and there is no legal heir of Baba Gurmukh Dass, as alleged? OPR-2

(6) Relief?"

6. After the parties led evidence and after hearing the learned Counsel for the parties, the petition filed by the petitioner was dismissed.

7. Feeling dissatisfied, the petitioner preferred the instant appeal under Section 96 of the Code of Civil Procedure for setting aside of award, dated 01.12.2016.

8. During the pendency of the present appeal, appellant has filed applications under Order 41, Rule 27 and Order 41, Rule 33, read with Section 151 CPC, i.e. CMP No. 3323 of 2021 & CMP No. 14375 of 2022, for placing on record the certified copy of judgment and decree dated 27.02.2020, passed by learned Senior Civil Judge, Nalagarh, District Solan, H.P. and certified copy of order dated 31.01.2017, passed by learned Senior Civil Judge, Nalagarh,

District Solan, H.P. It has been averred in the applications that succession petition preferred under the provisions of Section 371 & 372 of the Indian Succession Act has been answered vide order dated 31.01.2017 and the same has attained finality. Besides this, the appellant had also filed a suit for declaration with the consequential relief of permanent prohibitory and mandatory injunction, which was decreed vide judgment and decree dated 27.02.2020 and the appellant has been declared as the owner in possession of the suit property, qua the land measuring 10.00 bighas, 10.00 biswas, comprised in Khasra No. 735/827, including the land, which is part and parcel of the entire personal holdings of Baba Gurmukh Dass, out of which, a portion of the suit land to the extent of 8.00 bighas had been acquired. The learned Court has also held the appellant entitled to the management of Math of Ram Mandir Temple. With these averments, it has been prayed that since order dated 31.01.2017 and judgment and decree dated 27.02.2020 have been passed after the decision of the impugned award, the same are necessary and requisite for the purpose of

proper adjudication of the present case and required to be brought on record.

9. I have heard the learned Senior Counsel for the appellant, learned Deputy Advocate General for the respondent/State and have also gone through the material available on record.

10. At this stage, it would be apt to reproduce Order 41, Rule 27 CPC, which reads as under:-

“27. Production of Additional Evidence in Appellate Court-(1) *The parties to an appeal shall not be entitled to produce additional evidence, whether oral or documentary, in the Appellate Court, But if:*

(a) the Court from whose decree the appeal is preferred has refused to admit evidence which ought to have been admitted, or

(aa) the party seeking to produce additional evidence, establishes that notwithstanding the exercise of due diligence, such evidence was not within his knowledge or could not, after the exercise of due diligence, be produced by him at the time when the decree appealed against was passed, or

(b) the Appellate Court requires any document to be produced or any witness to be examined to enable it to pronounce judgment, or for any other substantial cause, the Appellate Court may allow such evidence or document to be produced, or witness to be examined.”

11. Thus, the jurisdiction of the Appellate Court would be exercised when a party seeking to produce additional evidence establishes that such evidence was not within his knowledge or could not, after the exercise of due diligence, be produced by him at the time when the decree appealed against was passed. Since order dated 31.01.2017 and judgment and decree dated 27.02.2020 have been passed after the pronouncement of the impugned award, therefore, in the opinion of this Court, the aforesaid order and judgment and decree, sought to be placed on record by way of additional evidence, are necessary for just decision of the case.

12. Accordingly, the present applications are allowed and certified copy of order dated 31.01.2017 as well as judgment and decree dated 27.02.2020, passed by Senior Civil Judge, Nalagarh, District Solan, H.P., are ordered to be placed on record. However, the same shall be proved by the appellants in accordance with law. Hence, the impugned award, dated 01.12.2016 is set aside and the case is remanded back to the learned Court below to decide the

same afresh, after giving reasonable opportunity of being heard and to lead evidence to both the parties.

13. Needless to state that since the case pertains to the year 2009, the learned Court below is directed to decide the same on or before **31.12.2026**. Parties are directed to appear before the learned Court below on **10.09.2026**.

14. Learned Registrar (Judicial) shall ensure that the entire record be remitted to the learned Court below forthwith.

15. The appeal is disposed of in the above terms, so also pending application(s), if any.

11th August, 2026
(raman)

(Sushil Kukreja)
Judge