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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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Date of decision: 27.08.2026

**Gurudwara Sahib Dasmi Patshahi
through its devotees**

....Appellant

Vs.

Bhola Singh and others

....Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present: Ms. Nikita, Advocate for
Mr. Mandeep Kumar Dhot, Advocate
for the appellant (through V.C.).

HARSH BUNGER J.

1. For convenience, the parties herein are being addressed as per their status in the original suit.

2. This is the plaintiff's regular second appeal challenging the judgment and decree dated 26.07.2018 passed by learned Civil Judge (Junior Division), Sunam, as well as the judgment and decree dated 13.09.2022 passed by learned Additional District Judge, Sangrur.

3. Briefly, the plaintiffs filed a suit for declaration, possession, permanent injunction and rendition of account in representative capacity under Section 92 of the CPC.

3.1 The aforesaid suit was filed by the plaintiffs on the plea that the suit property as well as other property of Gurudwara Sahib Dasmi Patshahi is not the personal property of anybody but the same is donated by different

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persons from time to time for the benefit of public in general, for religious purposes.

3.2 It is averred that numerous persons, who are interested in the suit but all cannot be joined as party in the suit, as such the suit is being filed in personal capacity as well as representative capacity as devotees by Baldev Singh and others. It is further averred that plaintiffs have no personal interest in the suit property rather suit has been filed for welfare and in the interest of the plaintiff-Gurudwara Sahib Dasmi Patshahi and its property.

3.3 According to the plaintiffs, the residents of the village in general meeting passed a resolution dated 10.11.2013 to initiate proceedings against the defendants with regard to the suit property and Baldev Singh and others have been authorized to file the plaint and to do all acts for the conduct of legal proceedings.

3.4 It is the pleaded case of the plaintiffs that Mohinder Singh son of Bachan Singh was not a Mohatmim of Gurudwara Sahib Dasmi Patshahi, rather no Mohatmim was appointed in the Gurudwaras as per Sikh Religion/Custom, but only the Granthi is appointed, who looks after and manages the Gurudwara Sahib and also performs other religious duties but its property is being looked after by the Committee.

3.5 It is further alleged that Mohinder Singh was not appointed as Mohatmim of plaintiff-Gurudwara by the residents of the village and public in general or by any competent authority. Plaintiffs claimed that the entry in his name (Mohinder Singh) in the revenue records, shown as Mohatmim of plaintiff-Gurudwara is wrong and same is liable to be corrected in favour of Gurudwara Sahib.

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3.6 It is also claimed that since Mohinder Singh was neither the Mohatmim of the plaintiff-Gurudwara nor he had any concern with the suit property, therefore, he was not entitled to appoint defendant No.1 (Bhola Singh) as the Mohatmim of the Gurudwara and/or to execute any Will in his favour. The alleged Will dated 12.08.2002 alleged to be executed by Mahant Mohinder Singh in favour of defendant No.1 (Bhola Singh) qua the suit property, is illegal, null and void and liable to be set aside. It is further claimed that even the consequent mutation No.6260 dated 14.03.2005 sanctioned on the basis of the aforesaid Will is liable to be set aside.

3.7 It is also the pleaded case of the plaintiff that defendant No.1 (Bhola Singh), by claiming himself to be the Mohatmim of the plaintiff-Gurudwara, has taken cultivating possession of the suit property about four years ago, illegally and wrongly; of which he has no right, therefore, he is liable to handover the possession of the suit property to the plaintiff-Gurudwara.

3.8 It is also alleged that defendant No.1 (Bhola Singh) has also derived income and benefit from the suit property and utilized the same for his own benefits. Not even a single penny has been spent on the development, welfare and betterment of the Gurudwara Sahib. Accordingly, plaintiff-Gurudwara Sahib is entitled to rendition of account from the defendant for the last three years.

3.9 It is further alleged that the defendant No.1 (Bhola Singh) had got the khasra girdawari of the suit property in his name illegally and wrongly, which is liable to be corrected. It is averred that since defendant No.1 (Bhola Singh), has threatened to transfer the possession of the suit

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property to some other persons and also to change the nature of the suit property, accordingly, the suit has been filed.

4. Upon issuance of notice in the aforesaid suit, defendant No.1 (Bhola Singh) appeared and opposed the claim of the plaintiff by raising various preliminary objections regarding locus standi, cause of action, maintainability, jurisdiction, concealment of facts etc.

4.1 On merits, it was stated that plaintiff No.1 (Gurudwara Sahib Dasmi Patshahi, Jharon) is the owner of the property in dispute and defendant No.1 is its Mohatmim and is looking after and managing the Gurudwara Sahib and its property. It is also admitted that the plaintiff-Gurudwara Sahib is being worshipped by the plaintiffs in general and defendant No.1 (Bhola Singh) is managing and looking after its property and performing all other acts to keep the sanctity of the Gurudwara Sahib intact.

4.2 He claimed that only the Managing Committee of the Gurudwara Sahib (if any) can pass a resolution, therefore, the suit has not been filed through competent persons. It is specifically stated that Baldev Singh and others have no right to file the suit. It is also stated that earlier the suit property was looked after and managed by Mohinder Singh, who was the Mohatmim of the Gurudwara Sahib and his name was entered in the revenue records since long, which is correct. It is further stated that Mohinder Singh was authorized to execute the Will devolving his rights and authorities in favour of anyone through Will or otherwise. He claimed that the Will is quite legal and not liable to be set aside. It is also pleaded that he was not drawing any income for his personal benefits nor he threatened the

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plaintiffs to dispose of the suit property. Remaining averments of the suit were denied and prayer for dismissal of suit was made.

5. From the pleading of the parties, following issues were framed by the learned Trial Court:-

- “1. Whether the plaintiff is entitled to declaration, as prayed for? OPP.*
- 2. Whether the plaintiff is entitled to possession, as prayed for? OPP.*
- 3. Whether the plaintiff is entitled to permanent injunction, as prayed for? OPP.*
- 4. Whether the plaintiff is entitled for rendition of account, as prayed for? OPP.*
- 5. Whether the plaintiff is entitled has no locus-standi and cause of action to file the present suit? OPD*
- 6. Whether the suit of the plaintiff is not maintainable in the present form? OPD.*
- 7. Whether the plaintiff is estopped by own act and conduct from filing the present suit? OPD.*
- 8. Whether the plaintiff has not come to the court with clean hands? OPD*
- 9. Relief.”*

6. Thereafter, the parties led their respective evidence in support of their pleaded case.

7. The learned Trial Court vide judgment and decree dated 26.07.2018 dismissed the suit of the plaintiffs.

7.1 Feeling aggrieved, the plaintiffs preferred an appeal before the learned Additional District Judge, Sangrur, which has also been dismissed vide judgment and decree dated 13.09.2022.

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8. In the aforementioned circumstances, present regular second appeal has been filed before this Court.

9. I have heard the learned counsel for the appellant and perused the paperbook with her able assistance.

10. In the present case, the plaintiffs had filed a suit for declaration, possession, permanent injunction and rendition of account in representative capacity under Section 92 of the CPC. The dispute between the parties is regarding the management of the affairs of the Gurudwara Sahib Dasmi Patshahi as well as its property. The learned Trial Court has dismissed the suit filed by the plaintiffs. Even an appeal filed by the plaintiffs had also been dismissed by the learned Additional District Judge, Sangrur vide judgment and decree dated 13.09.2022, by holding as under:-

“13. The instant suit had been instituted by plaintiffs on behalf of all other villagers being devotees of Gurdwara Sahib Dasmi Patshahi of village Jharon, Sunam in representative capacity under section 92 of CPC seeking for settlement of a scheme for the administration of the said Gurdwara Sahib and declaration with regard to Will dated 12.08.2002 to be null and void and further sought possession of the suit land, restraining the defendant from transferring the suit property and for rendition of accounts. Section 92 CPC deals with the suits filed if there is any alleged breach of any trust or constructive trust created for public purposes of a charitable or religious nature, which can be filed either by Advocate General or 2 or more persons having an interest in the trust. In the case in hand, plaintiffs had filed the suit being devotees of Gurdwara Sahib. It had been asserted by plaintiff that no mohtmim could be appointed for Gurdwara Sahib. No doubt no mohtmim could be appointed for Gurdwara Sahib, but mohtmim for the management of property



(land measuring 191 Kanals 19 Marlas in the present case) can be appointed.

14. To prove their case, plaintiffs examined Baldev Singh (plaintiff No. 1) as **PW2** who reiterated their averments of the plaint in his examination in chief but in his cross-examination he was on denial mode and even feigned ignorance with regard to the contents of his affidavit tendered by him in his examination in chief. Plaintiffs also examined plaintiff No. 13 Sher Singh as **PW4**, plaintiff No. 6 Jaswinder Singh as **PW5**, Balvir Singh as **PW6**, Bikkar Singh as **PW7**, Gurdeep Singh as **PW8** who are residents of the village Jharon and deposed on the lines of plaint that defendant had been misusing the property of Gurdwara Sahib and that management committee is required to be constituted for looking after the property. In cross examination **PW4**, **PW5**, **PW6** and **PW8** stated that defendant was appointed as Granthi by the villagers after death of Mohinder Singh and since then defendant had been taking care of the management and affairs of Gurdwara Sahib.

15. As per section 92 CPC, the prerequisite to file a suit under this provision, is that existence of a trust, express or constructive has to be there. It had been argued on behalf of plaintiffs that since the land in question had been donated by public which is evident as per copies of mutations **Ex. P1/A**, **Ex. P2/B** and **Ex. P3/C**, therefore, the said land had to be used for general purposes and a constructive trust had been constituted. Even if the said contention of the plaintiffs is accepted as true, it has to be seen that whether plaintiffs had any authority to file the present suit with regard to property owned by Gurdwara Sahib.

16. As per the Punjab Government notification dated 10.07.1959 from the Home Department, Gurdwara Sahib Patshahi Dasmi Jharon Sangrur was declared as Sikh Gurdwara under the provisions of Sikh Gurdwaras Act 1925.

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The affairs of the Gurdwara Sahib were to be managed by SGPC. Defendant had filed writ petition to challenge the notification dated 10.07.1959 and the subsequent notifications before Hon'ble High Court and as per the order of Hon'ble High Court dated 22.05.2008 Ex. D4, status quo regarding possession was ordered to be maintained by the parties. As per Ex. D3 the interim order dated 22.05.2008 was held to be continued and the matter was admitted by Hon'ble High Court vide order dated 10.02.2011. Meaning thereby, that SGPC was a necessary party but was deliberately not impleaded as a party by plaintiffs. Moreover, as for the possession of Gurdwara Sahib, status quo was ordered to be maintained, therefore, plaintiffs cannot seek the relief of possession as sought by them. Otherwise also when SGPC was to manage the affairs of the Gurdwara Sahib, plaintiffs had no authority to get scheme formulated for managing the same. Hence, the 2 suit of plaintiffs was rightly dismissed by learned Trial Court."

10.1 From the above extracted finding returned by the learned First Appellate Court, it is apparent that Gurudwara Sahib Dasmi Patshahi, Jharon, was declared as a Sikh Gurdwara under the provisions of Sikh Gurdwaras Act 1925, in terms of Govt. of Punjab notification dated 10.07.1959. It has also been held that the affairs of the Gurudwara Sahib were to be managed by SGPC. It is a matter of record that writ petition had been filed to challenge the aforesaid notification dated 10.07.1959 and also the subsequent notification before this Hon'ble High Court and vide order dated 22.05.2008 (Ex. D4) status quo regarding possession was ordered to be maintained by the parties.

10.2 It has been further held that vide an interim order dated 10.02.2011 (Ex. D3), the interim order dated 22.05.2008 (Ex. D4) was

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ordered to be continued and the matter stands admitted by this Hon'ble High Court.

10.3 In the aforementioned facts, the learned First Appellate Court has held that SGPC was necessary party but was deliberately not impleaded by the plaintiffs. It is further held that since there is an order of status quo, therefore, plaintiffs cannot seek relief of possession as sought by them. Since, SGPC was to maintain the affairs of the Gurudwara Sahib, therefore, the plaintiffs have no authority to get the scheme formulated for managing the same.

11. Before this Court, learned counsel appearing for the appellant has failed to dislodge the aforesaid observations made by the learned First Appellate Court nor it has been shown as to how the aforesaid findings are either illegal, perverse or based upon any misreading or mis-appreciation of evidence available on record.

12. Keeping in view the aforementioned facts and circumstances, I see no reason, which may warrant interference by this Court in the present regular second appeal. No question of law, much less substantial question of law arises for adjudication in this regular second appeal. Resultantly, the instant regular second appeal fails and the same is accordingly **dismissed**.

13. All the pending application(s), if any, shall also stand closed.

(HARSH BUNGER)
JUDGE

27.08.2026
Ankit

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No