

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

FAO No.456 of 1989 (O&M)

Date of Decision: May 27, 2015

S. Kundan Singh

.. Appellant

vs.

Shiromani Gurdawara Parbandhak Committee .. Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Harit Sharma, Advocate for the appellant.

Mr. Sukhbir Singh, Advocate for the respondent.

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh J.

This appeal is directed against the judgment dated 24.09.1987 passed by the Sikh Gurudwaras, Judicial Commission, Amritsar vide which in a petition filed by the Shiromani Gurudwara Parbandhak Committee (in short 'SGPC') under Section 142 of the Sikh Gurudwara Act, 1925, the present appellant was saddled with the liability to pay ₹10,760.86 along with interest @ 12% per annum.

Brief facts of the case, necessary for the disposal of the appeal are that as per the complaint of S. Swaran Singh, President, Managing Committee of Gurudwara Teja Kalan, District Gurdaspur, S. Kundan Singh i.e. present appellant was working as Manager,

Committee of Management of Gurdwara Teja Kalan, District Gurdaspur. S. Swaran Singh, President of the Committee moved an application on 07.09.1974 before the Secretary of the SGPC for checking the accounts of the gurudwara. Gurudwara Inspector of the SCPC, namely S. Surjit Singh checked the accounts from 1967 to 1974 and submitted report on 01.11.1974 and found that the present appellant had caused loss to the tune of ₹10,760.86 to the gurudwara on account of maleficence, breach of trust, negligent on duty, abuse of power with expenditure etc.

The present appellant-respondent in the reply denied such allegations. From the pleadings, preliminary issues as well as main issues were framed. Issue Nos.1 to 8 were decided against the present appellant-respondent. Consequently, the impugned judgment was passed.

I have heard learned counsel for the parties and have also carefully gone through the case file.

The original file of the present appeal was destroyed in the unfortunate fire incident that occurred in the record room of this Court in the year 2011. Therefore, the matter is to be decided on the basis of whatsoever record is available on the file and as supplied by the parties.

Admittedly, the present appellant-respondent was working as Manager of the Managing Committee of Gurudwara, Teja Kalan, District Gurdaspur. The allegations against him are that he misused the powers assigned to him and spent certain amount.

The present appellant-respondent while appearing as RW2 had stated in his cross examination that he used to take permission notes from the President for sanction and payments used to be made by him after receiving permission from the President. He also proved bills Exs.P-6 to P-59, which were signed by S. Swaran Singh, President as token of the sanction. Similarly, bills Exs.P-60 to P-72 were produced. These bills were found to be pre-audited by the pre-auditors. The Commission took the view that it is for the respondent to prove that he had correctly spent the amount for the benefit and interest of the Gurudwara. It is found that the amount was not properly used for the benefits of Gurudwara.

The SGPC had alleged embezzlement, therefore, it was for the petitioner (respondent herein) to prove that the amount has been embezzled.

Admittedly the bills, which were produced were pre-audited. The onus was wrongly shifted to the present appellant-respondent by the Sikh Gurudwaras Commission.

There are bills regarding payment to the Gurudwara Grandhies and other purchase. From this fact, it cannot be said that there was misappropriation. The person, who audited the accounts was not examined to prove that the bills are forged and the amount in fact was not used for the purpose for which the said amount ought to be used.

There are small payment as discussed by the Commissioner. However, I am of the view that it is not proved that the

amount shown in the bills was misused.

I am of the view that the Commissioner wrongly placed the burden upon the present appellant-respondent to prove that the amount was properly used. In day to day functioning, it is not possible to justify each and every spending and to prove that it is for the benefit of the Gurudwara.

It being so, the present appeal is allowed. The impugned judgment is unsustainable in the eye of law and the same is accordingly set aside.

Consequently, the petition filed by the SGPC before the Sikh Gurudwaras Judicial Commission, Amritsar stands dismissed.

May 27, 2015
sarita

(KULDIP SINGH)
JUDGE