

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

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CM No.354-CII of 2011 and
FAO No.53 of 2011 (O&M)

Date of Decision: August 10, 2015

S. Ranjit Singh son of S. Gurbachan Singh, House No.237, Village
Warriach, P.O. Hyat Nagar, Tehsil and District Gurdaspur

...Appellant

Versus

Shiromani Gurdwara Parbandhak Committee, Teja Singh Samundri Hall,
Amritsar through S. Bhupinder Singh Mukhtar-i-am

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. S.S. Khaira, Advocate
for the appellant.

Mr. Sukhbir Singh, Advocate
for the respondent.

AUGUSTINE GEORGE MASIH, J.

This appeal has been filed challenging the judgment and decree passed by the Sikh Gurdwara Judicial Commission, Amritsar, vide which petition under Section 142 of the Sikh Gurdwara Act, 1925, filed by the respondent against the appellant, stands allowed.

2. Briefly the facts are that Gurdwara Sahib Patshahi Panjvi, Dhariwal Japuwal, District Gurdaspur, is a notified Sikh Gurdwara under Section 87 of the Sikh Gurdwara Act. The appellant was a member and was elected as Vice President of the Gurdwara Sahib. On the report of Jassa Singh, Gurdwara Inspector, dated 03.11.2005, it came to light that an amount of ₹10,000/- was withdrawn by the appellant from the funds of the Gurdwara Sahib against a voucher but the said amount has not been deposited and, therefore, the petition was filed for recovery of the said

amount. In reply, an objection was taken that the application is bad for non-joinder of all the members of the local Committee and the Manager of the Committee and that the application was without any *locus standi*. The said petition has been filed with a *mala fide* intention by suppression of the material facts. On merits, it was denied by the appellant that he had taken a sum of ₹10,000/- with a *mala fide* intention and the same was not returned. It was alleged that the documents are forged, fabricated and simply manipulated and no inquiry was held or even conducted and the findings of Jassa Singh, Gurdwara Inspector, dated 03.11.2005 in the report are without any basis.

3. On the basis of the pleadings, six issues were framed. On considering the evidence, as has been produced, it was held that the appellant had, in fact, taken an amount of ₹10,000/- and the voucher was proved as Exhibit P4/1. The report of Jassa Singh, who conducted the inquiry and submitted the report dated 03.11.2005 Exhibit P-2, has been duly proved. On the basis of the evidence so produced, the suit was decreed. It was held that the petition was maintainable, therefore, issues 1 and 2 were decided in favour of the respondents. No evidence was produced with regard to issues 3 and 5 and the onus being upon the appellant, was not discharged and, therefore, these issues were decided in favour of the respondents. On the basis of the decision on issues 1 and 2 in favour of the respondents, the decree for a sum of ₹10,000/- along with 9% interest per annum from the date of institution of the petition till its realisation, was passed. The appellant was also held disqualified for becoming member of the notified Gurdwara or Board for a period of five years vide judgment and decree dated 05.02.2010. Counsel for the appellant has pressed upon the

issue that the appellant signed the documents in English and that the signatures upon the voucher and the resolutions, which have been relied upon by the respondents and the appellant, are not his as he has disputed the same. This contention of the counsel for the appellant cannot be accepted as the respondents, during the evidence, which has been produced before the Commission, have proved the voucher Exhibit P4/1, vide which the amount was handed over to the appellant. PW-2 Jassa Singh, Gurdwara Inspector has proved his report Exhibit P-2 dated 03.11.2005. PW-5 Dalbir Singh corroborated and proved the fact that he being the member cashier of the Gurdwara, gave ₹10,000/- to the appellant against voucher Exhibit P4/1 and the said amount was not deposited in the Gurdwara Funds. Joginder Singh, who appeared as PW-4, who was the then Manager of the Gurdwara Sahib, proved the voucher Exhibit P4/1, which was written by him and the same was signed by him being a Manager and also signed by the then President Dalbir Singh and Jasbir Singh as also Ranjit Singh-appellant. All this evidence proves beyond doubt that the amount of ₹10,000/- had been received by the appellant, which he had not deposited in the Gurdwara Sahib.

4. The plea of the counsel for the appellant that Ranjit Singh always signs the documents in English and not in Punjabi, such as the power of attorney, written statement, reply to the application, affidavit and even the statement has been given in English language and, therefore, the signatures on the voucher Exhibit PW-4/1, which are in Punjabi, are not his, cannot be accepted as it is not disputed that there is a factionalism in the Gurdwara and it has been intentionally signed in English and, therefore, it can safely be said that the same have knowingly and intentionally been

signed in English. In the vakalatnama as also the affidavit, which have been filed in this appeal, the signatures of the appellant are in Punjabi and when the same are compared with the signatures on the voucher Exhibit PW-4/1, the same appears to be that of the appellant and, therefore, it is difficult to believe that the voucher has not been signed by the appellant.

5. As regards the contention of the counsel for the appellant that the petition under Section 142 of the Sikh Gurdwara Act, 1925, was not maintainable at the behest of the respondents, the same cannot be accepted as per the evidence, which has been produced before the Commission and has been discussed in the order. That apart, as per Section 142 of the Sikh Gurdwara Act, 1925, the petition could have been filed by any person and, therefore, the objection with regard to the maintainability of the petition before the Commission, cannot be accepted.

6. In view of the above, finding no merit in the present appeal, the same stands dismissed.

7. In the light of the dismissal of the appeal, the application for stay i.e. CM No.354-CII of 2011, also stands dismissed.

August 10, 2015
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE