

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Letters Patent Appeal No.770 of 2015 (O&M)

Date of Decision: May 19, 2015

Gurmej Singh

.....Appellant

versus

The Commissioner, Jalandhar Division and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE P.B.BAJANTHRI.

Present: Mr.Ashish Aggarwal, Senior Advocate with
Mr.Vijay S.Kajla, Advocate, for the appellant.

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1. Whether Reporters of Local papers may be allowed to see the judgment?yes

2. To be referred to the Reporters or not?yes

3. Whether the judgment should be reported in the Digest?

Surya Kant, J. (Oral)

This letters patent appeal is directed against the order dated 29.01.2015 of the learned Single Judge whereby the appellant's writ petition challenging the eviction order passed in respect of a 'religious premises' comprising agricultural land, was dismissed.

[2] The facts may be noticed briefly.

[3] The agricultural land measuring 25 kanal 12 marlas situated in village Vallah, District Amritsar (the most of the area now falls within the municipal limits of Amritsar City), is admittedly owned by Gurdwara Kotha Sahib, the management of which now vests in Siromani Gurdwara Parbandak Committee (for short, 'SGPC').

[4] The subject land was leased out to Chanan Singh-

father of the appellant, for the period 1994-1995 (though the appellant claimed that it was an oral lease and period was not fixed.

[5] State of Punjab has enacted the 'Punjab Religious Premises and Land (Eviction and Rent Recovery) Act, 1997' (for short, 'the 1997 Act'). Its Section 2 (e) defines 'Religious Premises' as follows:-

“2 (e). 'Religious Premises' means any land whether used for agricultural or non-agricultural purposes, or any building or part of a building belonging to a Religious Institution and includes,

- (i) the garden, grounds and out-houses, if any, appertaining to such building or part of a building; and
- (ii) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof.....”

[6] Section 3 of the 1997 Act explains as to who would be treated in unauthorized occupation of a 'religious premises' and it says as under:-

“3. Unauthorized occupation of religious premises:- For the purpose of this Act, a person shall be deemed to be in unauthorized occupation of any religious premises-

- (a) where he has, whether before or after the commencement of this Act, entered into possession thereof otherwise than under and in pursuance of any allotment, lease or grant; or

- (b) where he, being an allottee, lessee or grantee has, by reason of the determination or cancellation of his allotment, lease or grant in accordance with the terms in that behalf therein contained, ceased, whether before or after the commencement of this Act, to be entitled to occupy or hold such religious premises; or
- (c) where any person authorized to occupy any religious premises has, whether before or after the commencement of this Act, -
 - (i) sub-let, in contravention of the terms of allotment, lease or grant, without the permission of the Religious Institution, the whole or any part of such religious premises, or
 - (ii) otherwise acted in contravention of any of the terms, express or implied, under which he is authorized to occupy such religious premises.....”

[7] The agricultural land leased out to the appellant's father indisputably falls in Section 2 (e) of the Act and is thus a 'religious premises'.

[8] SGPC being the statutory management of Gurdwara Kotha Sahib, moved an application under Sections 5 and 6 of the 1997 Act for the eviction of appellant's father (Chanan Singh) on the ground that he was in unauthorized possession of the land measuring 25 kanal 12 marlas. It was averred in the eviction application dated 05.06.1998 that the

land was leased out to Chanan Singh for a period of one year (the date of lease was not mentioned) but in para No.6 of the eviction application, it was specifically averred that Chanan Singh was in unauthorized possession of Gurdwara land after 15.06.1995. It was further averred that a notice in writing was served upon Chanan Singh to show cause as to why eviction proceedings be not initiated against him.

[9] It appears that Chanan Singh died soon thereafter as written statement was filed by the appellant who claimed that his father was a regular tenant who had been paying the rent uninterruptedly and after the death of his father, the appellant is in possession as a tenant. Rest of the averments were also disputed.

[10] The Sub Divisional Magistrate-cum-Collector, Amritsar vide order dated 31.01.2000 dismissed the eviction petition on the ground that the tenant had already filed application before the Tehsildar, Amritsar-I “and got deposited the rent from Kharif 1996 to Hadi 1998.....”, the receipts whereof were produced by Gurmej Singh. The Collector further observed that since SGPC failed to prove the non-payment of rent, hence the appellant was not liable to be evicted. The Collector further held that SGPC had no concern with the land as there was a local Managing Committee of the Gurdwara.

[11] The Collector, thus, gave an impression as if there was a dispute between the local Managing Committee of the SGPC over the management of Gurdwara.

[12] The notified Managing Committee of the Gurdwara through its Manager therefore filed an appeal against the order of Collector to rule out any dispute in re: management

of the Gurdwara. The Commissioner, Jalandhar Division, exercising the powers of Appellate Authority, firstly referred to the notifications and historical facts to establish that the subject land is owned by Gurdwara Kotha Sahib at Vallah and the same is one of the notified Gurdwara under the management and control of SGPC. The Appellate Authority held and rightly so that the eviction petition was filed by SGPC at a time when Managing Committee of the Gurdwara was not constituted, for which SGPC was very much competent. In any case, the duly constituted Managing Committee of the Gurdwara came forward in appeal hence, the question of locus was beyond any debate. The Appellate Authority further held that the land was given on lease to Chanan Singh for one year, i.e., 1994-1995. To arrive at this conclusion, the Appellate Authority relied upon Section 138 of the Sikh Gurdwaras Act, 1925 which stipulates that a local Managing Committee of the Gurdwara could lease out the Gurdwara's land on year to year basis only.

[13] Admittedly, there was no renewal of the lease after the year 1994-95 and no fresh lease, orally or otherwise, was executed in favour of Chanan Singh. The local Managing Committee of the Gurdwara or SGPC never accepted any rent from the appellant or his father to draw any inference of renewal of lease. The Collector as well as the Appellate Authority both have concurrently held as a matter of fact that arrears of lease money of Rs.6,000/- were deposited by the appellant on 05.04.1999 with the Tehsildar (and not with the Local Managing Committee of the Gurdwara or SGPC).

[14] The above-stated facts leave no room to doubt that after expiry of initial lease period of one year, the

appellant's father became an unauthorized occupant as the lease period was never extended thereafter. He as well as the appellant thus fell within the ambit of Section 3(b) of the 1997 Act, namely, unauthorized occupants, against whom eviction proceedings in respect of a 'religious premises' are maintainable under the special statute of 1997.

[15] The reliance placed on a recent decision of the Hon'ble Supreme Court in Shyam Lal versus Deepa Dass Chela Ram Chela Garib Dass, 2015 (3) Scale 132 does not advance the case of appellant for the reasons that there the tenancy was governed under the Punjab Security of Land Tenures Act, 1953 and on consideration of certain provisions of that Act, it has been ruled that a tenant of agricultural holding does not become trespasser after expiry of tenancy. The aforesaid principle cannot be attracted or applied where terms and conditions of the lease of a religious premises are regulated by a special statute.

[16] The decision of this Court in Rameshwar versus Sheo Chand and others, 1981 PLJ 362, is equally inapplicable as that case was also under the Punjab Security of Land Tenures Act, 1953, where tenant continues to retain that status even after expiry of fixed period of lease.

[17] Yet another decision of this Court in Gram Panchayat Dhandrian versus Chanan Singh, 1985 RRR 324, in a matter pertaining to grant of ad-interim injunction in a civil suit, too does not help the appellant to wriggle out of the effects of special law comprising the 1997 Act.

[18] Two other decisions of this Court in (i) Bir Singh versus The State of Punjab and others, 1982 PLJ 276 and (ii) Jarnail Singh versus The Dialpur Bhaika Cooperative

Agricultural Service Society Limited, 1983 PLJ 99 are also distinguishable as both the cases deal with the provisions of the Punjab Tenancy Act, 1987.

[19] It goes without saying that the legislature has stepped in to and enacted the 1997 Act with the object of creating a mechanism for the eviction of unauthorized occupants from religious premises. It is with this aim in mind that the legislature has added the explanation below Section 3 of the 1997 Act to clarify that even if a person has paid any rent, he shall not merely by reason of such payment to be taken to enter into possession as a allottee, lessee or grantee over the religious premises.

Keeping the legislative object of the statute in view, we do not find any ground to interfere with the order passed by learned Single Judge.

Dismissed.

[SURYA KANT]
JUDGE

May 19, 2015
mohinder

[P.B.BAJANTHRI]
JUDGE

CM No.1593 of 2015 in
LPANo.770 of 2015

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Gurmej Singh versus The Commissioner, Jalandhar Division
and
another.

Present : Mr.Ashish Aggarwal, Senior Advocate with
Mr.Vijay S.Kajla, Advocate,
for the applicant-appellant.

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The prayer in this application is for condonation of delay of 66 days in filing the appeal. It is averred that the applicant-appellant did not come to know about the judgment rendered by learned Single Judge as two registered letters sent by his counsel were received back with the report that the letters cannot be served upon the addressee for want of particulars of street and mohalla. It is further averred that the counsel thereafter contacted the Sarpanch of the village through whom a message was sent to the applicant-appellant. The application is duly supported with an affidavit.

For the reasons mentioned in the application, the same is allowed subject to all just exceptions and 66 days' delay in filing the appeal is condoned.

CM stands disposed of.

(SURYA KANT)
JUDGE

May 19, 2015
mohinder

(P.B.BAJANTHRI)
JUDGE