

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

C.R. No.7012 of 2015

Date of Decision.25.10.2016

Mehtab Singh

.....Petitioner

Vs

S. Hakam Singh and others

.....Respondents

Present: Mr. P.S. Guliani, Advocate
for the petitioner.

Mr. Ajaivir Singh, Advocate
for respondent Nos.2 to 4.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J. (ORAL)

The petitioner is aggrieved of the impugned order dated 27.07.2015 passed by the Sikh Gurdwara Judicial Commission, Amritsar (hereinafter called as the “Judicial Commission”) whereby the application in Case No.02/2015 filed under the provisions of Order 39 Rules 1 and 2 and order 40 Rule 1 CPC against the respondents Hakam Singh and others, has been dismissed.

Mr. P.S. Guliani, learned counsel appearing for the petitioner submits that the petition has been filed under Section 142 of the Sikh Gurdwara Act, 1925 before the Judicial Commission alleging the act of malfeasance, breach of trust and negligence of duty. Along with the petition, the application noticed above rejected by the Judicial Commission was also filed. He submits that as per the written statement filed by respondent Nos.2 to 4 i.e. the Shiromani Gurdwara Prabhandak Committee, it is alleged that notification bearing No.1513-GP dated 27.10.1961 was

declaring the Gurdwara Sri Guru Nanak Dev Ji situated in village Gurbaxpura, Tehsil Malerkotla, District Sangrur as Sikh Gurdwara. Thereafter petition bearing No.182 of 1963 under Section 8 and petition bearing No.100 of 1963 under Section 10 of the Sikh Gurdwara Act, 1925, were filed before the Sikh Gurdwara Tribunal but the same had been dismissed vide order dated 05.04.1965 wherein it was declared that Gurdwara Sri Guru Nanak Devi Ji is a Sikh Gurdwara. Against the aforementioned decision, Mahant Hakam Singh preferred appeals upto the Hon'ble Supreme Court but the order dated 05.04.1965 was upheld. Thereafter, vide notification No.106-GP dated 10.05.1978, the aforementioned Gurdwara was notified as Sikh Gurdwara. The 1925 Act had been primarily enacted for management, supervision and control of the Sikh Gurdwaras and properties attached thereto. The respondent No.2, Shrimoni Gurdwara Prabhandak Committee in utter violation of 1925 Act entered into compromise with Hakam Singh, respondent No.1, on 03.12.1987 before the Judicial Commission/Tribunal whereby the Shrimoni Gurdwara Prabhandak Committee agreed to appoint respondent No.1 as administrator of the aforementioned Gurdwara along with the properties measuring 34 acres of land attached thereto. As per the terms of compromise, respondent No.1 has been authorized to manage and govern the Gurdwara during his life time. Under that compromise, he is continuing to manage the affairs of the Gurdwara and by invoking the provisions of Section 142, any Sikh having faith in the Sikh religion can file the objection. The order under challenge is not sustainable in the eyes of law as there is active collusion between respondent No.1 and respondent Nos.2 to

4. Respondent Nos.2 to 4 have abused the power. In fact, annual income of

the Gurdwara is more than ₹22 lacs whereas respondent No.1 is paying ₹3000/- per year to the Shrimoni Gurdwara Prabhandak Committee, thus, there is a considerable loss to its income.

There is no representation for respondent No.1 despite service.

Per contra, Mr. Ajaivir Singh, learned counsel appearing for respondent Nos.2 to 4 submits that the property is Sikh Gurdwara and the petitioner has not disclosed in his petition regarding the notification dated 27.10.1961 issued under Section 7(3) of the Sikh Gurdwara Act, 1925 in respect of Gurdwara Sri Guru Nanak Dev Ji situated at village Gurbaxpura, Tehsil Malerkotla, District Sangrur. The Shiromani Gurdwara Parbandhak Committee wanted to proceed against respondent No.1 and sought the opinion of the legal consultants and it had been advised to file an application for review of the order dated 03.12.1987 but since the Tribunal was not holding the Court for the last two three years, it had been advised to initiate proceedings under Section 4 of the of the Punjab Religious Premises and Land (Eviction and Rent Recovery) Act, 1997 and the Shiromani Gurdwara Parbandhak Committee has appointed sub committee to submit its report to take appropriate action. He submits that the order under challenge do not call for interference.

I have heard learned counsel for the parties, appraised the paper book and of the view that there is no force and merit in the aforementioned contentions of Mr.Guliani, for, in case the prayer sought in the application for ad interim injunction and appointment of receiver is allowed, it would tantamount to allowing the petition moved under Section 142 of the 1925 Act (Annexure P-2). It is settled law that where under the garb of interim relief, the main relief is contemplated then such relief should not be granted.

As per the terms of the compromise dated 03.12.1987 which is matter of record, the Shiromani Gurdwara Parbandhak Committee will not interfere into the management of the Gurdwara Sahib. It is also a matter of record that as per the terms and conditions of the compromise, Hakam Singh was appointed as administrator of the Gurdwara Sahib, in essence, he is managing the affairs of the Gurdwara Sahib.

In my view the grievance of the petitioner at this stage in respect of the relief sought cannot be redressed as it is in the domain of the Shiromani Gurdwara Parbandhak Committee to take action, which it has already contemplated, to take in accordance with the law.

In view of the specific stand taken in the written statement, I am of the view that the impugned order dated 27.07.2015 cannot be said to have been passed without jurisdiction. There is no illegality and perversity. There is a direction issued by the Judicial Commission/Tribunal that respondent No.1 must manage affairs of the Gurdwara Sahib in letter and spirit of the order of the Tribunal. No prima facie evidence has been led to unveil the alleged misappropriation of the funds. Accordingly, the revision petition is wholly devoid of merit and the same is hereby dismissed.

(AMIT RAWAL)
JUDGE

October 25, 2016

Pankaj*

Whether reasoned/speaking Yes

Whether reportable No