

FAO no. 25 of 1978 (O&M) 1

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO no. 25 of 1978 (O&M)

Date of Decision :27.09.2017

Mahant Ram Singh

....Appellant(s)

Versus

S.G.P.C, Amritsar

...Respondent(s)

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR JUSTICE RAJ SHEKHAR ATTRI

Present:- Mr.Arun Jindal, Advocate for the appellant(s)

Mr. Harminder Singh, Advocate

Mr. Tushar Sharma, Advocate for the applicant

MAHESH GROVER, J.(ORAL)

CM no.18467-CII of 2017 and main case

This is an application praying for disposal of the present appeal as the controversy raised herein is akin to the one determined in FAO no. 222 of 1975 which we disposed of on 23.2.2017.

Both the parties are agreed that the property which was subject matter in FAO no. 222 of 1975 is the same as the one involved herein and since we have determined the issue of this being a Dera and not a Sikh Gurdwara, the conclusion in FAO no. 222 of 1975 would apply in the present appeal as well. Consequently, we accept application and take the matter on Board.

As the parties are agreed that the judgment rendered in FAO no.

the instant appeal in the same terms, particularly, noticing that these proceedings in the present FIR have arisen out of Section 10 of the Sikh Gurdwara Act, 1925. Section 10 of Sikh Gurdwara Act is extracted herebelow:-

“10. Petition of claim to property including in a list published under sub-section (3) of Section 7:- (1) Any person may forward to the (State) Government through the (appropriate Secretary to Government) so as to reach the Secretary within ninety days from the date of the publication of a notification under the provisions of sub-section (3) of Section 7, a petition claiming a right, title or interest in any property included in the list so published.

(2) Signing and verification of petitions under sub-section (1) :- A petition forwarded under the provisions of sub-section (1) shall be signed and verified by the person forwarding it in the manner provided by the Code of Civil Procedure, 1908(5 of 1908), for the signing and verification of plaints, and shall specify the nature of the right, title and interest claimed and the grounds of the claim.

(3) Notification of property not claimed under sub-section (1) and effect of such notification:-
The (State) Government shall, as soon as may be, after the expiry of the period for making a claim under the provisions of sub-section (1) publish notification,

specifying the rights, titles or interest in any properties in respect of which no such claim has been made and the notification shall be conclusive proof of the fact that no such claim was made in respect of any right, title or interest specified in the notification.”

In FAO no. 222 of 1975 an issue was raised by some devotees questioning the notification issued by the Government eventually leading to our decision that Dera was not a Sikh Gurdwara. We have extracted the relevant portion of our conclusion:-

“We are of the opinion that the Tribunal went wrong in this aspect altogether and this coupled with the fact that the institution lacks in inherent characteristics of a Sikh Gurdwara such as the non-installation of Guru Granth Sahib and congregation to recite Guru Granth Sahib and presence of Sadhs are significant sign posts that would lead us to conclude that the Tribunal was wrong in recording the Dera to be a Gurdwara.”

Section 10 of the Sikh Gurdwaras Act pertains to the claim to the property and once we have determined the proceedings under Section 7 to hold that the place of worship is not a Sikh Gurdwara, appended properties to the Dera would naturally flow to the Dera itself. In fact the present appeal has largely been rendered infructuous in view of the inescapable conclusion flowing axiomatically from the conjoint reading of the Section 7 and 10.

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151 CPC. In FAO no. 222 of 1975 a similar application has been moved and we have disposed it of accepting the claim of the applicant –Mahant Surjit Singh while discarding the claim of Mahant Piara Singh who claimed to be successor of Mahant Gurbachan Singh on the basis of Will and Bhekh. On the parity of the reasoning, we would accept the present application as well to rule against the objections of the non-applicant. It would be appropriate if we extract the relevant portion of the order passed in a similar application in FAO no. 222 of 1975.

“Learned counsel for the applicant (Mahant Surjit Singh) in CM No.6352-CII of 2017 has contended while asserting his own right that this amendment was carried out by the Hon'ble Supreme Court as well which is reflected from the order passed in Civil Appeal No.606 of 1982. It has further been averred that Mahant Gurbachan Singh's conduct came under scrutiny when he alienated some land in favour of Shiromani Gurdwara Prabandhak Committee virtually creating the ground for the present dispute. It is averred that this Court has now negated the action of Mahant Gurbachan Singh by holding that the property is not of Shiromani Gurdwara Prabandhak Committee and is of Dera Nirmala Sadhus. Learned counsel for the said applicant also draws the attention of this Court to some earlier proceedings where this Court had the occasion to approve the removal of Gurbachan Singh as Mahant. This fact is adequately noticed in the order passed by the revenue authorities in the proceedings under Section 26 of the Sikh Gurdwara Act which is extracted as under :-

“....On 5-10-1975 a meeting of the Nirmala Bhekh was held at Dera Baba Gandha Singh in village Harike Kalan Tehsil Mukatsar to the effect that present Mohant Gurbachan Singh of Dera Baba Gandha Singh is causing great damage to the Dera and the Bhekh and out of his greed, he has got the Dera declared as Gurudwara. After full consideration, it was decided in the interest of the Dera that Mohant Gurbachan Singh be removed from mohantship forthwith. In fact he be deemed to have been expelled from the Bhekh and the Dera with effect from 21-7-1975 because his misdeed of that day of trying to hand over the property of the Dera to the Gurdwara Committee was treacherous for the Bhekh and Dera. Subsequently, the Bhekh unanimously decided to appoint Sant Ram Singh chela of Mahant Bhan Singh as mohant of the Dera. This was rectified by the above said congregation, sants mohants, faithfuls and Panchayats unanimously. Hon'ble Mr. Justice Gurnam Singh vide his order dated 18-10-1976, the appointment of mohant Ram Singh was held to be correct and removal of Gurbachan Singh was approved. Mohant Ram Singh died on 11-2-1983 and after his death mohant Surjit Singh was appointed Mohant of the Dera Baba Gandha Singh. Mohant Surjit Singh filed a suit No.680 of 18-11-1992 against SGPC and its Manager for permanent injunction that he is the mohant and SGPC should not

demolish Samadh. This suit was decreed on 26-4-1997 by the Civil Judge (Junior Division) Barnala holding he has locus standi to bring the suit. The aforesaid decree dated 26-4-1997 was upheld by the Addl.Distt. Judge Barnala vide judgment dated 22-9-2000. Vide Resolution No.2 dated 20-10-2000 passed by Nirmala Bhekh that Nirmala Bhekh as a whole appreciates such efforts made by Mohant Surjit Singh in this regard and approved his Mohantship of the Dera.....”

Apart from asserting their own right to be impleaded as party-respondent this fact has been pressed into service to counter the application filed by Mahant Piara Singh who claims his right under Gurbachan Singh on the basis of Will and Bhekh. It is contended that if Mahant Gurbachan Singh stood removed and the action approved as would be evident from the aforeextracted paragraph, applicant Mahant Piara Singh would have no surviving claim and would thus not be a necessary party at all.

Learned counsel appearing for Shiromani Gurdwara Prabanchak Committee contends that they would have no interest at least in this controversy raised in the applications.

After hearing the learned counsel for the parties, we are of the considered view that prima facie there is sufficient material to indicate the claim of Mahant Surjit Singh, while

Gurbachan Singh, whose conduct in alienating the land in favour of Shiromani Gurdwara Prabandhak Committee was castigated and was also removed from the affairs of the Dera duly approved by the order passed by Justice Gurnam Singh on 18.10.1976, to be a valid claim warranting acceptance of his application which is also fortified by another fact of filing civil suit for permanent injunction against the Shiromani Gurdwara Prabandhak Committee which was decreed and has attained finality as after the first appeal no other appeal was filed.

Accordingly, finding these pieces to be materially relevant to support the claim of applicant Surjit Singh as legitimate Mahant of the Dera, we would accept his application and order the correction of Memo of Parties.

The application moved by Mahant Piara Singh who has been unable to establish any claim of his being a Mahant with no interest in the dispute is, however, declined.”

(Mahesh Grover)
Judge

27.09.2017

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Whether speaking/reasoned

Whether reportable

Yes/No

Yes/No

(Raj Shekhar Attri)
Judge