

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

1. CR-4026-2016
Date of decision:18.1.2017

Ranjit Singh and others
...Petitioners

Versus

Sukhdev Singh and others
...Respondents

2. CWP-12760-2016

Ranjit Singh and others
...Petitioners

Versus

State of Punjab and others
...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.SP Soi, Advocate for the petitioners
in both the cases

Mr.Ramesh Sharma, Advocate
for Sukhdev Singh- respondent-caveator

SNEH PRASHAR, J.

Since both the aforementioned cases are inter connected,
they have been taken up together for disposal by way of this judgment.

Civil Revision No.4026 of 2016 had been filed for setting
aside the order dated 3.5.2016 passed by learned Additional District
Judge, Jalandhar by virtue of which the appeal filed against the order
dated 25.8.2015 of learned Civil Judge (Jr.Division), Nakodar was
partly allowed.

CWP-12760-2016 has been filed for issuance of a writ in the nature of certiorari for quashing of the Resolution dated 8.6.2016 passed by the Gram Panchayat Sohal Jagir under the Chairmanship of Authorised Panch Gurmit Singh (respondent No.5) thereby appointing Balvir Singh (respondent No.4) as Election Officer to conduct the election of the Managing Committee of Kalgidhar Gurdwara Prabandhak Committee, on the ground that the Resolution was in violation of order dated 3.5.2016 passed by learned Additional District Judge, Jalandhar. Also a writ in the nature of mandamus directing respondent No.3 Gram Panchayat Sohal Jagir not to hold the elections of the Managing Committee of the said Gurudwara was prayed for.

Ranjit Singh and others (petitioners- plaintiffs) filed a suit for declaration, permanent injunction, rendition of accounts and mandatory injunction against Sukhdev Singh and others. Alongwith the suit an application under Order 39 Rules 1 and 2 of the Code of Civil Procedure (for short 'CPC') was filed praying for an ad interim injunctive order restraining defendants No.1 to 8 from proclaiming themselves as President, Vice President, General Secretary, Assistant Cashier, Preacher, Advisor, Store Keeper and Cashier/ treasurer respectively of Kalghidhar Gurudwara Prabhandhak Committee, Sohal Jagir (for short 'the Gurudwara Committee') and from managing and controlling the day to day affairs of both the Gurudwaras i.e. 'Gurudwara Bahrla and Gurudwara Andrla' and also restraining the said defendants from operating the bank accounts of the said Committee or in the

alternative for appointment of receiver for proper management of day to day affairs of the Gurudwaras. The application was allowed by learned trial Court vide order dated 25.8.2015 and the defendants were restrained from proclaiming themselves as members of the management committee. Simultaneously Sub Divisional Magistrates, Nakodar and Shahkot were appointed as Receivers of the Gurudwara Committee to keep account of day to day management and affairs of both the 'Gurudwaras Andarla and Bahrla'. Defendants No.1 and 2 filed an appeal, which was partly allowed and the order of the trial Court was set aside to the extent of appointment of SDM, Nakodar and Shakot as receivers and the Gram Panchayat, Sohal Jagir was appointed as receiver and liberty was granted to the Gram Panchayat to get the elections of the Gurudwara Committee conducted in compliance of the bye-laws of the Committee, if so decided by the parties.

The submissions made by Mr.S.P.Soi, Advocate representing the petitioners and Mr.Ramesh Sharma, Advocate for respondent-caveator Sukhdev Singh (defendant) have been heard and file perused.

Learned counsel for the petitioner argued that the elections of the Gurudwara committee were to be conducted as per order of learned Additional District Judge, if the parties so decided. No such decision was taken by the petitioners and therefore, not only the Resolution passed by the Gram Panchayat is illegal but also the election conducted is unlawful and liable to be set aside. He further submits that the order dated 3.5.2016 passed by learned Additional District Judge,

Jalandhar partly allowing the appeal filed by respondent Sukhdev Singh etc. against the order dated 25.8.2015 of learned trial Court and thereby appointing Gram Panchayat Sohal Jagir as Receivers in place of Sub Divisional Magistrates, Nakodar and Shahkot be also set aside

There appears no merit in the argument of learned counsel for the petitioners. Admittedly Gram Panchayat Sohal Jagir is an elected body of the village. Learned counsel failed to demonstrate any infirmity in the Resolution passed by the Gram Panchayat and also could not refer to any bye laws by virtue of which the Resolution of the Gram Panchayat could be held to be illegal. No deficiency in the due process adopted by the Gram Panchayat for holding election of Gurudwara Prabandhak Committee could also be pointed out by learned counsel. Needless to say that the Gram Panchayat represents the residents of the village. In compliance of the order dated 3.5.2016, passed by learned First Appellate court, a Resolution was passed unanimously under the Chairmanship of authorised Panch Gurmeet Singh of the Gram Panchayat and one Balvir Singh was appointed as Election Officer to get the election of the Managing Committee of the Kalgidhar Gurudwara Committee conducted.

Learned Additional District Judge, Jalandhar while partly allowing the appeal vide impugned judgment dated 3.5.2016, had held as under:-

13. So far as the first prayer as made in the application is concerned, it is specifically pleaded by

the applicants that the tenure of first Gurudwara Committee came to an end on 15.03.1998 on account of the bye laws which provides that the Committee is constituted for a period of three years only. The counsel for appellants have conceded during arguments that elections of the Gurudwara Committee may be conducted as per bye-laws. In view of this undisputed fact that the elections of Kalgidhar Gurudwara Prabhadak Committee are due to be conducted, the order of interim injunction passed by the trial court to the extent of restraining the respondents no.1 to 8 i.e. the appellants and respondents no. 9 to 14 from proclaiming themselves to be the office bearers and restraining them from managing the affairs of Kalgidhar Gurudwara Committee and the land owned and possessed by Gurudwara Andrala and Gurudwara Bahrla does not deserve any interference. However, it is made clear that on account of the passing of interim restraint order against the respondents (i.e. appellants and respondents no. 9 to 14) , the working, affairs and functioning of the Gurudwara Prabhandak Committee becomes stand still and accordingly in order to meet this situation, the appointment of receiver as prayed

for by the applicants/ respondents no. 1 to 8 becomes necessary.

14. So far as the second part of prayer made in the application for appointment of gram panchyat village Sohal Jagir i.e. respondent no.15 as receiver, is concerned, learned counsel for the appellants has conceded during the course of arguments that they have no objection, if the request for appointment of gram panchyat village Sohal Jagir as interim receiver is allowed, as per the prayer of the respondents/applicants. In this view of the matter, the gram panchyat of village Sohal Jagir which is elected body of the village is appointed as receiver to manage the day to day affairs of Kalgidhar Gurudwara Prabhandak Committee, to manage and control the lands attached to both the Gurudwara Andrala and Gurudwara Bahrla and to operate the account no. 148 held by Kalgidhar Gurudwara Prabhandk committee village Sohal Jagir at Central Cooperative bank village, Sohal Jagir, in compliance of the bye-laws of the committee duly adopted by the committee. To avoid any ambiguity, the gram panchyat of village Sohal Jagir shall also be at liberty to get the elections of Gurudwara Prabhandak Committee conducted in compliance of the said bye laws of the committee, if it is so decided by the parties even at an earlier stage.”

From the above findings as well as from the plain reading of the pleadings of the plaintiffs- petitioners in their suit, it is crystal clear that they themselves had prayed for a mandatory injunction directing defendant No.9 Gram Panchayat of village Sohal Jagir to hold election

for the constitution of the Kalgidhar Gurudwara Parbhandk Committee, Sohal Jagir for the posts as stated above. It was to their prayer that the defendants- respondents had conceded to and accordingly a direction to Gram Panchayat (defendant No.9) was given to hold the election of the Gurudwara Management Committee. The Gram Panchayat, which represented both the parties of the village, in compliance of the order dated 3.5.2016 passed by learned Additional District Judge, passed a Resolution and conducted the elections. As stated by learned counsel for respondent No.1 Sukhdev Singh, the new elected Committee has since been constituted and has taken over the management and control of day to day affairs of both the Gurudwaras. When this was the prayer of the petitioners, it does not lie in their mouth to say that they had not consented for the election or that the Resolution passed by the Gram Panchayat is illegal.

In the above premise, the revision petition as well as the writ petition filed by the petitioner being devoid of merit are dismissed.

18.1.2017
gsv

(SNEH PRASHAR)
JUDGE

Whether speaking / reasoned?	Yes	/	No
Whether reportable?	Yes	/	No