

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

CWP No.23300 of 2013

Date of Decision.23.03.2017

Baba Jit Singh alias Jeet Singh Chela Baba Amar SinghPetitioner
(deceased through LRs)

Vs

The Commissioner, Faridkot Division, Faridkot and others

.....Respondents

Present: Mr. J.S. Brar, Advocate
for the petitioner.

Mr. P.S. Brar, Advocate
for respondent Nos.3 and 4.

Mr. P.S. Thiara, Advocate
for the applicants-proposed respondent No.5.

Mr. Yatinder Sharma, Addl. A.G., Punjab.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J. (ORAL)

C.M. No.5918 of 2014

For the reasons stated in the application, the same is allowed
and Shrimoni Gurdwara Parbanchak Committee is ordered to be impleaded
as respondent No.5.

Amended memo of parties is taken on record and registry is
directed to put it at the appropriate place.

CWP No.23300 of 2013

The petitioner is aggrieved of the impugned orders dated
12.09.2012 (Annexure P-5) and 20.07.2010 (Annexure P-3) came to be
passed in pursuance of the proceedings having taken place under the
provisions of Punjab Religious Premises and Land (Eviction and Rent
Recovery Act, 1997 (hereinafter called as the “Act of 1997) ordering

ejection from the land measuring 60 kanals 12 marlas.

Mr. J.S. Brar, learned counsel appearing on behalf of the petitioner submits that respondent No.3-Gurdwara Bauli Sahib Sher Singh Wala, instituted a petition for seeking ejection of the petitioner from the aforementioned land on the premise that the aforementioned Gurdwara is a notified Sikh Gurdwara under the provisions of Section 10 of the Sikh Gurdwaras Act, 1925 (hereinafter called as the "Act of 1925"). However, the petitioner having put in appearance, filed a reply challenging maintainability of the aforementioned petition on the premise that the Gurdwara was not declared as Sikh Gurdwara under Section 16 of the Act of 1925. However, the matter was not taken into consideration and respondent No.2, vide impugned order dated 20.07.2010, allowed the petition and appeal filed against the same was also dismissed, hence this writ petition.

Learned counsel for the petitioner has drawn attention of this Court to the provisions of Section 2 (d) and (e) of the Act of 1997, which reads as under, to contend that respondent No.3 does not fall in any of the categories mentioned below and therefore, the petition was liable to be dismissed on this ground alone :-

*"2(d) **Religious Institution** means any gurdwara, temple, church, mosque, temple of Jains or Budhas – which is registered under the provisions of the Societies Registration Act, 1860 (Central Act No.XXI of 186) or is established under any statute and includes any other place of worship by whatever name, it may be called, which is registered as aforesaid or is established under any statute"*

*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.”

Both the respondents did not consider that the shrine in question has not been declared a Sikh Gurdwara. Before the Government Sant Ram Bhaj Chela Badri Dass Kali Kambli Wale filed a composite petition under Section 8 and 10 of the Act of 1925 but the same was dismissed by the Sikh Gurdwara Tribunal on 20.10.1961 on the ground that Sant Ram Bhaj was not hereditary of its holder. Both the authorities below have erroneously relied upon Ex.AX, judgment rendered in civil suit bearing No.102 of 1983 decided on 19.12.1983 under Section 25-A of the Act of 1925 whereby the decree of possession was passed to allow the application in question. In fact, decree was required to be executed within one year, which having not been executed within one, lost its legal force, thus, urges this Court for quashing of the impugned orders.

On the contrary, Mr. P.S. Brar, learned counsel appearing for respondent No.3 and 4 and Mr. P.S. Thiara, learned counsel appearing for respondent No.5 submit that notification in this regard had already been effected on 27.11.1961 i.e. notification No.440 (Annexure R-1) whereas the petition for eviction was filed much later on, therefore, the plea of declaration of the Gurdwara a notified Sikh Gurdwara pales into

insignificance. The status of the petitioner is of a trespasser and therefore, he cannot be permitted to retain the possession, as the Gurdwara falls in the definition of Section 2(e) of the Act of 1997, thus, urges this Court for dismissal of the writ petition.

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 submissions of Mr. J.S. Brar, for, in view of the notification (Annexure R-1), the petition for Gurdwara being not declared as Sikh Gurdwara is inconsequential.

As regards the applicability of the provisions of Section 8 of the Act of 1925, same would not apply to the occupation of religious premises. In my view, the premises being religious and property in occupation of the petitioner, as per the revenue record, is shown in the ownership of respondent No.3. They are owners and therefore, petitioner has no locus standi to challenge the ownership.

Even if the aforementioned plea had been taken, the same has been rebutted in view of the notification. Ownership has also not been denied. As per jamabandi for the year 2000-2001, it has been found that possession and cultivation of the disputed property was shown of respondent No.3 and in column No.5 of jamabandi, names of Sant Ram, Bhajan Dass Chela Sant Ram Bahadur Dass are entered as cultivators. Presumption of truth is attached to the jamabandi, as per Section 44 of the Land Revenue Act, subject to its rebuttal. However, no such evidence to rebut the same has been led or brought on record. The decree in favour of the petitioners qua injunction is only not to dispossess them forcibly except in due course of law. Such remedy has been taken and therefore, that plea would also not come to the rescue of the petitioners.

The authorities below, particularly the Collector has taken up the matter in *extenso* by framing the issues and examining the evidence threadbare. For the foregoing reasons, the orders under challenge are hereby upheld. No ground for interference is made out. The writ petition is dismissed.

(AMIT RAWAL)
JUDGE

March 23, 2017
Pankaj*

Whether speaking/reasoned	Yes
Whether reportable	No