

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

CR No.5220 of 2023

Date of decision: 10.10.2023.

Iqbal Singh and others

....Petitioners

Versus

Sikh Gurdwara Judicial Commission and others

....Respondents

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Akshit Pathania, Advocate
for the petitioners.

Mr. B.S. Gulani, Advocate
for the respondents/Caveators.

VIKRAM AGGARWAL, J. (ORAL)

1. The present revision petition, preferred under Article 227 of the Constitution of India, lays challenge to the order dated 03.08.2023 (Annexure P-3) passed by respondent No.1 allowing the application filed by respondents No.2 to 4 under Order 39 Rules 1 and 2 CPC.

2. The facts, as emanating from the revision petition are that respondents No.2 to 4 preferred a petition under Section 142 of the Sikh Gurdwara Act, 1925 (hereinafter referred to as '1925 Act'). The dispute is with regard to the management of Gurdwara Gurusar Sahib Patshahi Dasvin located in Phul, District Bathinda. Petitioner No.1 is the President of the Gurdwara Committee since 2007, whereas petitioner No.2 and one Sukhdev Singh were members. Petitioner No.3 was not a party to the said petition. It was averred that the other two members namely, S. Darbara Singh and S.Chinder Singh had expired. Allegations of illegal acts of omission and commission were made against the President and members of the Committee. It was alleged that on the complaint of villagers, internal checking was done by the SGPC Gurudwara Inspector. He concluded in his report that one

of the members Sukhdev Singh had become old and was, therefore, not able to work as a member. It was reported that no meeting had been called or held with three members and no legal resolution had been passed for 05 years. It was averred that the Gurdwara Sahib owned 53 acres of agricultural land and the same was being given on lease of Rs.35,00,000/- per year for the last 05 years and expenditure of Rs.1,75,00,000/- was being incurred. Averments were made with regard to other income to the Gurdwara from the donations, akhand paths etc., and it was alleged that the present petitioners had not spent any amount on the construction or maintenance of the Gurdwara Sahib. It was alleged that they had misappropriated the income. It was prayed that the respondents to the said petition were liable to pay a sum of Rs.2.5 crores to the Gurdwara funds with 12% interest, that they were liable to be disqualified for 05 years and an FIR was also required to be registered against them.

3. The petition was opposed by way of a written reply. The same was filed by the present petitioners No.1 and 2. Certain preliminary objections with regard to maintainability, locus standi, cause of action, political factionalism, non-issuance of notice as envisaged under Section 143 of the Act, the petitioners being estopped by their own act and conduct from filing the petition and the petition having been filed with a view to harass and humiliate the present petitioners were raised. It was averred that the petition was a counter-blast to the suit for recovery of Rs.10,00,000/- filed by the present petitioner No.1 against respondents No.2 and 3 and other persons. On merits, allegations with regard to misappropriation of funds etc. were denied and averments with regard to the works done by the present petitioners were made.

4. It appears that the petition was accompanied by an application filed under Order 39 Rules 1 and 2 CPC (though the same has not been annexed with the petition). The said application was disposed of by the Tribunal (respondent

No.1). It was held that the present petitioner Nos.1 and 2 had no coram to manage the affairs of Gurdwara Sahib. They were, therefore, restrained from working as the President and Member of the Committee and one Gurpreet Singh son of Baldev Singh was appointed as receiver of the Gurdwara Sahib. Aggrieved by the said order, the present revision petition has been preferred.

5. I have heard learned counsel for the petitioners.

6. Learned counsel for the petitioners has strenuously urged that the impugned order is not sustainable. It has been contended that the issue of the coram not being complete was not there with the commission and therefore the commission was not entitled to go into the same. Learned counsel has contended that respondents no.2 to 4 had no *locus standi* to file the petition under Section 142 of the Act and that even the provisions of Section 143 with regard to issuance of notice had not been complied with. Learned counsel has further contended that the ingredients of the grant of injunction had not been fulfilled and despite the same, the Tribunal appointed a receiver and granted the injunction. Learned counsel has submitted that the matter deserves to be remanded to the Tribunal for a fresh decision on merits.

7. On the other hand, learned counsel for the respondents has contended that there is no illegality or infirmity in the impugned order. It has been submitted that the commission only appointed a receiver and that the petitioners should have no grievance with regard to the same. It has been argued that there were allegations of large scale financial irregularities on the part of the petitioners as a result of which the Tribunal appointed the receiver. Learned counsel has very fairly contended that this Court may even appoint some Government Officer as a receiver and that the respondents would not be averse to the same.

8. I have considered the submissions made by learned counsel for the

9. The petition filed under Section 142 of the Act leveled serious allegations against the petitioners No.1 and 2. The allegations, apart from others, were of large scale financial bungling and irregularities. The non-issuance of notice etc., may not be relevant at this stage. Even otherwise, as per the provisions of Section 143 of the Act, notice was to be given to the Committee and not to individuals when a petition was being filed against individuals on account of alleged mal-practices. Keeping in view the gravity of the allegations, the Committee appointed one Gurpreet Singh son of Baldev Singh as a receiver. It restrained the petitioners No.1 and 2 from working as the President and member as they did not have the coram to manage the affairs. The question as to whether a third person who was the Head Granthi could have been inducted in the Committee temporarily is not to be decided in the present petition. In any case, the Tribunal opined that the receiver would act as the Committee of Management for the purposes of Administration of the Gurdwara Sahib Affairs and its properties. It was also held that the receiver would submit the monthly detail of income and expenditure to the Tribunal every month. He was also directed to file the list of properties, assets, liabilities etc., of the Gurdwara Sahib to the Tribunal within a fortnight from taking over charge. Certain other directions were also given. The receiver was also authorized to operate the bank account of the Gurdwara Sahib. This Court finds that the directions were issued in the interest of the better management of the Gurdwara Sahib and only as an interim arrangement. The main petition filed under Section 142 of the Act is still pending. Ultimately, the same will be decided on its own merits. The preliminary objections with regard to *locus standi* etc., shall also be decided when the petition is decided.

10. In the considered opinion of this Court, the Tribunal (respondent No.1) did not commit any illegality or irregularity while passing the impugned order.

In view of the above, I do not find any merit in the present revision petition and the same is accordingly dismissed.

October 10th, 2023
Rekha

(VIKRAM AGGARWAL)
JUDGE

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No.