



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

111

FAO-5460-2014

Date of decision : 11.12.2024

Shiromani Gurdwara Prabhandak Committee**..... Appellant****versus****S. Kirpal Singh and others****..... Respondents****CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Dr. M.S. Virk, Advocate
for the appellant.

Mr. P.S. Guliani, Advocate
for respondent No.1.

None for respondent No.2.

Respondent No.3 proceeded ex parte
vide order dated 12.04.2019.

Respondent No.5 reported to have died.

PANKAJ JAIN, J. (Oral)

1. This is an appeal preferred by the Committee against order passed by the Tribunal dated 14.01.2010, whereby petition filed by the Committee under Section 142 of the Sikh Gurdwara Act, 1925 has been partly allowed.

2. The matter relates to Gurdwara Tahil Sahib, village and post office Gondpur, District Hoshiapur, a notified Sikh Gurdwara. Respondents were the office bearers of the Committee of Gurdwara Sahib. They were accused of having sold makki crop to one Gian Chand and was claimed that the crop was part of the offerings, offered by devotees at Gurdwara Sahib. It was claimed that inquiry was conducted



and as per the same, the respondents were found guilty of having embezzled an amount of Rs.56,400/-. It was further alleged that respondents misappropriated amount received on the leasing out the Gurdwara land. It was thus prayed that the decree for sum of Rs.1,12,685/- be passed against the respondents and in favour of the petitioner/appellant Committee.

3. Respondents filed their written statement denying the allegations. It was claimed that the offerings in form of crops of makki or wheat were never sold, but were rather used in langer. As per the practice, no separate account of the offerings in kind was maintained and thus, respondents never caused any loss to the Gurdwara Sahib.

4. Tribunal framed following issues:-

1. Whether the respondents have caused loss of Rs. 1,12,785/- by their acts of malfeasance, misfeasance, misuse of powers etc as alleged? OPP.
2. Whether the petitioner committee is entitled to any damages, interest as claimed? OPP.
3. Whether the present petition is bad for non-joinder of necessary parties? OPR.
4. Whether no notice under section 143 of the Sikh Gurdwara Act has been served, if so its effect? OPR.
5. Whether the petitioner has been filed with a malafide intention and ulterior motive? OPR.
6. Whether the petitioner has got no cause of action to file the present petition against the replying respondent? OPR.
7. Relief.”



5. While returning finding on issue No.1 and 2, Tribunal came to the conclusion that there is nothing on record to prove any monetary loss caused by the respondents, though they were held to be negligent in performing their duties. Resultantly, the petition was partly allowed. Prayer made by the Gurdwara Committee for monetary decree was declined. On account of being negligent in their duties and for irregularities while performing their functions, the respondents' office bearers of Gurdwara Sahib were disqualified from becoming members or employee of any notified Sikh Gurdwara or Board for a period of one year.

6. The present appeal was preferred after expiry of one year. Thus, the issue left is only with respect to the monetary relief claimed by the appellant and declined by the respondents.

7. Counsel for the appellant while assailing the impugned order submits that the sale of offering in kind i.e. makki crop to Gian Chand by the appellant stands proved in the inquiry. The inquiry report was proved on record, yet the Tribunal held that no monetary loss was caused by the respondents. The aforesaid findings being against the record deserves to be set aside and the respondents need to be saddled with the money decree for recovery of amount as claimed for in the claim petition.

8. *Per contra*, Mr. Guliani would submit that pure finding of fact has been recorded by the Tribunal after analyzing the evidence on record. There being no material irregularity or illegality in the finding recorded by the Court, no fault can be found with the award passed by the Tribunal.



9. I have heard counsel for the parties and have carefully gone through the records of the case.

10. A categoric finding has been returned by the Tribunal that from evidence, it was fully proved that the land of the Gurdwara was auctioned in a legal manner after informing the same to SGPC. Gurdwara Inspector was deputed. Gurdwara Inspector alongwith Halqa Member of SGPC remained present at the time of auction of the Gurdwara land. At no point of time any material illegally or irregularity was reported by either of them. Likewise, accounts of Gurdwara Sahib were pre-audited every time. Golak of Gurdwara was opened in the presence of Gurdwara Inspector.

11. In regard to issue of misutilization of the offering in kind i.e. makki and wheat, counsel for the appellant is not in a position to dispute that as per practice, no separate account of such offerings was maintained even prior to the respondents joining office. In view of above, there is nothing on record to show that either of the respondents misutilized any offering in kind. In the absence of any account being maintained qua offerings in kind, embezzlement thereof cannot be proved. Keeping in view the practice in Gurdwara prior to their joining as office bearers regarding non-maintenance of any register with respect to offering in kind, the respondents cannot be held guilty of any misconduct.

12. Consequently, this Court finds that the Tribunal rightly held that the respondents at the best can be held to be negligent in not maintaining the account of the offering in kind.



13. Findings no merit in the present appeal, the same is dismissed.

(PANKAJ JAIN)
JUDGE

11.12.2024
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No