



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

CR-4060-2022

Reserved on: 20.03.2026

Pronounced on : 15.05.2026

Uploaded on : 15.05.2026

Nachhattar Singh @ Surmukh Dass

...Petitioner

V/s

Gian Parkash and others

...Respondents

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Argued by: Mr. Gaurav Chopra, Senior Advocate with
Mr. Parvinder Singh, Advocate, for the petitioner.

Mr. Ravi Sodhi, Sr. Advocate with
Mr. Umesh Panday, Advocate, for respondent No.1.

Mr. APS Deol, Senior Advocate with
Mr. Arun Kumar Goyat, Advocate for the respondents.

VIKRAM AGGARWAL, J

The instant revision petition, preferred under Article 227 of the Constitution of India, assails the order dated 28.07.2022 (Annexure P-6) passed by the Court of Civil Judge (Jr. Divn.), Mansa, vide which the application filed by respondent No.1 (Gian Parkash) for appointing him as a legal representative of deceased Mahant Gopal Dass (plaintiff) was allowed.

2. The facts, as emanating from the revision petition are, that a suit (Annexure P-1) was instituted by one Mahant Gopal Dass and two others, (Bhagwan Shri Chandra Mandir Dera Baba Mast Ram Ji and Samadh Baba Mast Ram Ji Fakir Udasi Dera Baba Mast Ram Ji), against the present petitioner (Nachhattar Singh) for permanent injunction restraining the defendant from interfering in the suit land (fully described in the plaint),

situated at Village Ralla, Tehsil and District Mansa (hereafter referred to as “the suit property”).

3. The case set up was that the plaintiffs were owners in possession of the suit property and the defendant had no concern with the sale. It was averred that the defendant was trying to take illegal possession of the suit property, without there being any right, over the same. Under the circumstances, the suit for injunction was filed.

4. The suit was opposed by way of a written statement (Annexure P-2). It was averred that earlier one Mahant Charan Das had adopted the defendant as his disciple and since then the defendant had been residing in the Dera and serving there. After the death of Mahant Charan Das, Gopal Dass was appointed as Mohtmim of the Dera with the consent of the defendant and the defendant became the Chela of Gopal Dass. A Chela is legally treated as a son of his guru. It was also averred that it had been agreed that after the death of Gopal Dass, the defendant would act as Mohtmim of the Dera and would inherit the Dera as his successor. It was averred that it was the defendant who was managing the properties of the Dera as Gopal Dass was about 90 years old and was not in a position to look after the properties of the Dera. It was averred that the suit had been got filed by some persons by pressurizing Gopal Dass. On merits also, a similar stand was taken.

5. During the pendency of the suit, the plaintiff Mahant Gopal Dass expired as a result of which, an application (Annexure P-3) was moved by one Gian Parkash for impleading him as a legal heir of Mahant Gopal Dass. It was averred that Mahant Gopal Dass had expired on 28.04.2022, leaving the applicant behind as his Chela. It was averred that before and

the Dera and land of the Dera. It was averred that Mahant Gopal Dass had executed a general power of attorney on 31.08.2021 in favour of the applicant, which had duly been registered. It was also claimed that a Will had also been registered in favour of the applicant and the Akhada of Haridwar had declared the applicant as Mohtmim of Dera Udasi Dera Baba Mastanath and Bhagwan Shri Chander Mandir, Village Ralla. It was averred that accordingly he was taking care of the entire land of the Deras and was aware of the facts of all cases. Under the circumstances, it was averred that the applicant was the legal heir of Mahant Gopal Dass and was the Mohtmim of the Dera. Accordingly, it was prayed that he be declared as legal heir of deceased Mahant Gopal Dass.

6. The said application was opposed by the present petitioner (Nachhattar Singh alias Surmukh Dass), who averred in the reply that the applicant was not LR of the plaintiff nor was he Chela of the plaintiff and was, therefore, not entitled to be impleaded as a legal representative. It was averred that it was the defendant who had been appointed a Mahant by the Bhek on 15.05.2022. It was, therefore, prayed that the application be dismissed.

7. Vide order dated 28.07.2022, the said application was allowed leading to the filing of the instant revision petition.

8. Learned counsel for the parties were heard.

9. It was submitted by Sh. Gaurav Chopra, learned Senior Counsel representing the petitioner/defendant that the order is not sustainable. It was argued that under no circumstance, could the applicant have been declared as legal heir of the plaintiff.

9.1 It was submitted that the office of Mahant is not heritable and upon the death of the plaintiff, no one could represent him as his LR and, therefore, the application was liable to be dismissed.

9.2 It was submitted that no power of attorney would be operative after the death of a person and similarly on the basis of some alleged Will, no one could be said to be the legal heir of a deceased person.

9.3 It was also submitted that it was the petitioner who had been elected as the Mahant by the Bhek and, therefore, there was no occasion for the trial court to have allowed the application for impleading Gian Parkash as the legal heir/legal representative. In support of his contentions, learned Senior Counsel placed reliance upon judgments in the case of ***Gulzar Shah and others v. Sardar Ali Shah and others, 1930 AIR Lahore 703, Krishna Singh v. Mathura Ahir and others, (1981) 3 SCC 689, Mahant Vijay Muni v. Gram Panchayat of Village Bambeli and others, 2007 (11) RCR (Civil) 486 and Mahant Vijay Muni Cheli Mahant Jamna Das v. Gram Panchat of village Bambeli and others (SLP (c) No.6947/2008, decided on 31.03.2008).***

10. *Per contra*, learned Senior Counsel representing the respondents submitted that there is no illegality in the impugned order. It was submitted that since it was a suit for permanent injunction, the only issue was as regards possession and there was no question of title involved. It was submitted that the legal representative had been appointed only for the purpose of representing the plaintiff in the suit and for continuation of the same and, therefore, no illegality was committed by allowing the application.

10.1 It was also argued that a legal representative is different from a legal heir and the respondent had been brought on record only as a legal

representative and not as a legal heir. In support of their contentions, they placed reliance upon the judgments in the case of ***Aditya Minor through his mother Smt. Pooja alias Pataso Devi alias Parkasho v. Subhash and others, 2025 (3) ICC 662, Mohinder Kaur and another v. Para Singh and others, 1980 SCC Online P&H 251 and Mahant Amar Dass Chela Mahant Jai Ram Dass v. Shiromani Gurdwara Parbhandak Committee, Amritsar, 1992 AIR (Punjab) 288.***

11. I have considered the submissions made by learned counsel for the parties.

12. Section 2(11) CPC defines legal representative as under:

“2. Definitions- In this Act, unless there is anything repugnant in the subject or context,-

(1) xxx xxx xxx

(11) "legal representative" means a person who in law represents the estate of a deceased person, and includes any person who intermeddles with the estate of the deceased and where a party sues or is sued in a representative character the person on whom the estate devolves on the death of the party so suing or sued;”

13. Order 22 CPC deals with death, marriage, insolvency of parties. Order 22 Rule 1 lays down that there would be no abatement by the death of a party if the right to sue survives. Order 22 Rule 2 onwards then lays down the procedure where plaintiffs or defendants die. Order 22 Rule 4(a) lays down the procedure where there is no legal representative and Order 22 Rule 5 deals with the issue of determination of a question as to legal representative and lays down as under:-

“5 . Determination of question as to legal representative— Where a question arises as to whether any person is or is not the legal representative of a deceased plaintiff or a deceased defendant, such question shall be determined by the Court:

[Provided that where such question arises before an Appellate Court, that Court may, before determining the question, direct any

subordinate Court to try the question and to return the records together with evidence, if any, recorded at such trial, its findings and reasons therefore, and the Appellate Court may take the same into consideration in determining the question.]”

14. Such issues as to who would be a legal representative keep on arising where a suit has been instituted by the Mahant of a Dera. Upon the death of a Mahant, rival claims arise. It is well settled that it is the Bhek which ultimately appoints the Mahant upon the death of a previous Mahant. In the case of ***Mahant Parminder Dass v. Gurmeet Singh and others, 2010(17) RCR (Civil) 888***, a coordinate Bench was seized of a similar issue. In that case, an application filed by one Mahant Parminder Dass to implead him as a legal representative of Mahant Didar Dass had been dismissed. It was the claim of the applicant that he had been appointed as a Mahant by the Bhek and, therefore, he was a legal representative within the definition of Section 2 (11) CPC. The coordinate Bench set aside the impugned order and allowed the application moved by Mahant Parminder Dass.

15. In the case of ***Angre Sahib chela Sant Isher Dass Udasi v. State of Punjab and others, 1968 CurLJ 992***, an application had been filed by the legal representative of a deceased Mahant under Order 22 Rule 3 for impleading him as a legal representative. The trial Court, despite noticing that the applicant had been appointed as a Mahant by the Panchayat and the Bhek, held that he had no *locus standi* to continue in the suit as the right to sue did not survive. Therefore, it was held that the suit had abated. The said decision was set aside by the coordinate Bench and the applicant was ordered to be substituted as the legal representative.

16. In the case of ***Nand Kishore alias Nand Baba v. Hem Raj and others, 1987(2) CurLJ (CCR) 501***, it was held that the property of a Dera

upon the death of a Mahant would devolve on the Chela and not upon the

son of the Mahant. It was held that the Mahant could, however, appoint his son as a Chela provided that the Chela is appointed in the presence of the Bhek.

17. In the case of ***Madho Dass alias Lakhvinder Singh Chela Shri Chetan Dass vs. Mahant Jagat Dass Chela Mahatma Hans Dass, 2019(5) ILR HP 611***, the Himachal Pradesh High Court rightly held that all legal heirs ordinarily are legal representatives but all legal representatives are not necessarily legal heirs. A similar view was taken by a coordinate Bench in the case of ***Aditya Minor v. Subhash and others*** (supra).

18. It is well settled, as was held by a Division Bench of the Lahore High Court in the case of ***Gulzar Shah and others v. Sardar Ali Shah and others*** (supra) that succession to religious offices is not hereditary and is dependent on election by a specific body of electors. A similar view was taken by a coordinate Bench of this Court in the case of ***Mahant Vijay Muni v. Gram Panchayat of Village Bambeli and others*** (supra).

19. Reverting to the facts of the case, the application moved by Gian Parkash was to implead him as a legal heir of deceased Mahant Gopal Das Chela Charan Dass. The following averments were made in the application:-

“2. That Mahant Gopal Dass expired on 28.04.2022 leaving behind his Chela. Before and after the death of Mahant Gopal Dass, I myself applicant gian Parkash has been taking care of the Dera and land of Dera and I am also presently taking care of the land. Mahant Gopal Dass has also executed an General Power Attorney on 31.08.2021 in favour of the applicant Gian Parkash. The above General Power of Attorney bearing No. 2021-22/116/4/98 dated 31.08.2021 has been duly registered before the Sub-Registrar, Ferozepur and on that day i.e. on 31.08.2021, a Will bearing No. 2021-before the Sub-22/116/4/98 has also registered Thereafter, the Akhara of Registrar, Ferozepur. Hardwar has declared the applicant Gian Parkash as Mohatmim of the Dera Udasi Dera Baba Masat Ram and Bhagwan Shri Chander Mandir Village

Ralla, District Mansa. I, Gian Parkash being Chela Shri Mahant Gopal Dass, resident of Ralla is taking care of the entire land of the Deras and I am fully knowing the facts of all the cases, because I Gian Parkash is living in the above Dera since my childhood and I am doing the sewa of the saints. Photocopy of the Will and copy of Death Certificate of Mahant Gopal Dass are being annexed herewith. Copy of Aadhar Card is also annexed herewith.

3. That in this regard, the applicant is the legal heir of Mahant Gopal Dass and is the Mohatmim of the above Dera. Being the Mohatmim, the applicant may kindly be declared as legal heir of Mahant Gopal in the present case and appropriate proceeding be taken.”

20. The application was opposed by way of a sketchy reply but it was stated as under:-

“1. xxx xxx xxx

2. That Para No.2 of application is wrong and denied. The applicant is not LR of Plaintiff nor is Chala of Plaintiff of Mahant of Dera Mast Ram and he is not entitled to be impleaded as LR of the Plaintiff rather the Defendant is the nominated Mahant of this Dera. The Defendant was appointed Mahant by the Bhek on 15.05.2022 otherwise also this application is not maintainable and suit is not liable to be proceeded with rather is liable to be dismissed due to death of the Plaintiff so the cause of action no more survives.”

21. In the considered opinion of this court, when such rival claims had been raised, the Court concerned should have conducted an enquiry as envisaged under Order 22 Rule 5 CPC to arrive at a conclusion as to who would be the legal representative of Mahant Gopal Dass. However, no such exercise was carried out and by way of the impugned order, Gian Parkash was ordered to be brought on record as legal representative of Mahant Gopal Dass on the basis of some Will. In the considered opinion of this court, this was not the right approach in view of the rival claims.

22. In view of the above, the present revision petition is allowed.

The impugned order dated 28.07.2022 (Annexure P-6) passed by the Court

Court concerned to decide the application afresh by conducting an enquiry in terms of the provisions of Order 22 Rule 5 CPC.

Pending application(s), if any, also stand disposed of.

(VIKRAM AGGARWAL)
JUDGE

Pronounced on 15.05.2026

vcgarg

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No