

Pancham Dass Chela Mahant Sant Ram

Vs

S.G.P.C., Amritsar

Civil Appeal No. 1969 of 1978

(K. Ramaswamy, N. M. Kasliwal JJ)

17.01.1991

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JUDGMENT :-

1. This appeal is directed against the judgment and decree of the Punjab & Haryana High Court dated 2-6-78. A petition was filed by the appellant under 'Sections 8 and 10 of the Sikh Gurdwara Act of 1925 (hereinafter referred to as the Act)'. The respondent Sikh Gurdwara Parbandhak Committee raised a preliminary objection that the petition was not maintainable in view of the fact that the appellant was not a hereditary office-holder. No custom of the institution was alleged. The petition therefore merits dismissal as the petitioner has no locus standi. The Tribunal framed the following preliminary issues:

- (1) whether the petition contains an allegation regarding the petitioner being the hereditary office-holder of the institution in dispute, if not to what effect?
- (2) whether the petitioner is the hereditary office-holder of the institution in dispute.

The appellant then moved an application for amending the petition for allowing him to take the plea that the petitioner was a hereditary office-holder. The Tribunal allowed the amendment by Order dated 27-4-64. The prayer was allowed subject to payment of Rs. 501- as costs. The respondent accepted the costs and the case was fixed for amended written statement. The parties then led evidence and the case was fixed for arguments on the preliminary issue on 8-11-65. The Tribunal on 8-11-65 passed the following Order:

"During the course of arguments it was conceded by the counsel for the respondent that the petitioner is a hereditary officeholder. In view of the statement the first issue relating to the locus-standi is decided in favour of the petitioner.

To come up for evidence of the respondent on the 2nd issue which was framed by the Tribunal on 3rd of August, 1964 relating to the merits of the dispute on 6-12-1965."

The parties then led evidence on the merits of the case. The matter was finally decided by the Tribunal on 24-8-72. The majority of the Tribunal held that the institution was a Sikh Gurdwara. The appellant aggrieved against the said order filed an appeal before the High Court. The High Court did not go into the merits of the case and dismissed the appeal on the ground that the appellant had no locus standi and the Tribunal was not correct in allowing the amendment. The appellant in these circumstances has come up in appeal before this Court.

2. We have heard learned counsel for the parties and in our view the High Court committed an error in deciding the question of locus standi in favour of the respondent. The facts of the case clearly show that the amendment was allowed by the Tribunal by Order dated 27-4-64 on payment of Rs. 50/- as costs. The respondent accepted the costs. Thereafter the preliminary issue was decided by the Tribunal in favour of the appellant by order dated 8-11-65. The above Order dated 8-11-65 clearly mentions that during the course of arguments it was conceded by the counsel for the respondent that the petitioner was a hereditary office-holder. It is also not in dispute that the respondent accepted the payment of costs of Rs. 50/- which was granted by the Tribunal while allowing the amendment. In view of those circumstances, we are clearly of the opinion that the High Court was not justified in dismissing the appeal simply on the ground that the amendment could not have been allowed and the appellant had no locus stand to file the petition under Section 8 of the Act.

3. In the result, we allow this appeal, set aside the Order of the High Court dated 2-6-76 and remand the case back to the High Court for deciding the appeal on merits on the issue whether the institution is a Sikh Gurdwara, In view of the fact that it is an old matter, the High Court shall decide the appeal as early as possible. There will be no order as to costs.

Appeal allowed.

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