

Harnam Singh and another

Vs

Shiromani Gurdwara Parbandhak Committee, Amritsar,

Civil Appeal No. 1394 of 1976

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

21.03.1991

JUDGEMENT

KASLIWAL, J.:-

1. This appeal by Special Leave is directed against the judgment of Punjab and Haryana High Court dated 23rd September, 1975.

2. Brief facts leading to the present appeal are that the appellants filed a claim petition under sub-sec. (1) of S. 5 of the Sikh Gurdwara Act, 1925 (hereinafter referred to as 'the Act') on the ground that the appellant Harnam Singh was the Manager of Baba Daya Chand Dharamsala situated in village Phaphre Bhai Ke. The appellants alleged that the land khasra Nos. 345, 1861, 1047, 1053 and 1054 measuring in all 76 bighas and 7 biswas was attached to the Dharamsala Baba Daya Chand and was not the property of the Gurdwara Sahib Phaphre Bhai Ke. The claim was contested by the Sikh Gurdwara Parbandhak Committee (respondent). The contention of the respondent was that the disputed land was the property of Gurdwara Sahib as entered at SI. No. 393 in Schedule I of the Act. On the pleadings of the parties the following three issues were framed.

1. What right, title or interest, if any, has the Dharamsala Baba Daya Chand, in the property in dispute?

2. Whether the petitioners have locus standi to file this petition?

3. What right, title or interest, if any, has the notified Sikh Gurdwara concerned in the property in dispute? By a majority judgment the Tribunal held that the claim had been substantiated neither by the appellants nor the respondent. The petition would stand dismissed with a declaration that the property claimed by the appellants was not the property of the Gurdwara notified under sub-sec. (2) of S. 3 of the Act. However, one of the Members of the Tribunal recorded a dissenting judgment and he was of the view that the property in dispute had been proved to be belonging to Gurdwara Sahib which is a scheduled Gurdwara and that Dharamsala Baba Daya Chand has no right, title or interest in the property in dispute.

3. Both the parties aggrieved against the judgment of the Tribunal filed appeals before the High Court. The High Court by its judgment dated 23rd September, 1975 allowed the appeal filed by the Sikh Gurdwara Parbandhak Committee and dismissed the appeal filed by Harnam Singh and another. The appellants have, now, come before this Court against the judgment of the High Court.

4. It was contended by learned counsel for the appellants that the notified Gurdwara known as 'Gurdwara Sahib' and mentioned at Sl. No. 393 in Ist Schedule of the Act was a different institution from Dharamsala Baba Daya Chand and there was no evidence on record to link the lands in dispute to the notified Gurdwara. It was contended that the High Court committed an error in interpreting the provisions of S. 5 of the Act. The land in dispute had been shown in the revenue records as owned by Dharamsala Sri Guru Granth Sahib while the Gurdwara notified was another institution known as 'Gurdwara Sahib' notified at Sl. No. 393. The High Court committed an error in holding that the land in dispute was muafi land. It was contended that there were following four patties in the village :

(i) Muafi Patti;

(ii) Phapheri;

(iii) Man Patti;

(iv) Balaul Patti;

A major portion of the land has been donated by Patti Balaul and this belies the case of the respondent that the land was a muafi land donated to Swara Granth Saheb of Bhai Behlo. The High Court further committed an error in holding that Bhai Behlo was founder of this institution. In this regard, it was further contended that the very name of the Dharamsala as "Dharamsala Baba Daya Chand" falsifies the stand taken by the respondent that Bhai Behlo was the founder of this institution. Baba Daya Chand was born after many years of the death of Bhai Behlo. It was also pointed out that there was a separate Gurdwara in the village known as Gurdwara Bhai Behlo and the Dharamsala in dispute was a separate institution.

5. Learned counsel for the respondent on the other hand contended that the High Court after thoroughly considering the oral and documentary evidence on record rightly held that the property in dispute belonged to the notified Sikh Gurdwara. It was contended that the appellant's own witnesses admitted that Guru Granth Sahib was read on certain occasions in the Dharamsala which was known as Dharamsala Guru Granth Sahib. Gurcharan Singh (P.W. 2) admitted that a portion of the Dharamsala had been set apart for the Parkash of Guru Granth Sahib and the other part was for marriage parties. The place in the plan marked X attached with the notification was reserved for the Parkash of Guru Granth Sahib. Brahm Nand (P.W. 3) also admitted that Guru Granth Sahib was also kept in the Dharamsala. It was also pointed out that in Ex. P-2 it was mentioned that the Samadh of Baba Daya Chand was situated in village Cheema. It was also submitted that in Ex. P-5 an order of Superintendent of Settlement operations it was clearly mentioned that the land in village Phaphre Bhal Ke was granted in muafi to Swara Granth Sahib of Bhai Behlo. From the above document it was clear that the land in village Phaphre Bhai Ke was given muafi in the name of Guru Granth Sahib.

6. We have considered the arguments advanced by learned counsel for both the parties and also considered the oral and documentary evidence placed on record. It may be noted that the property in question was notified under sub-section (2) of S. 3 of the Act as Gurdwara Sahib in the revenue estate of Phaphre Bhai Ke in Mansa Tehsil of Bhatinda District. The appellants describing them as Manager and President of Baba Daya Chand Dharamsala filed a claim petition under sub-section (1) of S. 5 of the Act. A Full Bench of the Punjab and Haryana High Court in 'Mahant Lachman Dass

Chela Mahand Ishar Dass v. State of Punjab, ILR (1968) 2 Punj and Har 499 has held that a claim to any right, title or interest in any part of the property belonging to the institution of a notified Sikh Gurdwara is not outside the scope of S. 5 of the Act. We agree with the view taken by the Full Bench of the Punjab and Haryana High Court that this matter can be gone into by the Tribunal. Both the parties had agreed before the High Court and rightly so that the land in dispute was attached to the institution which according to the appellants was Dharamsala Baba Daya Chand and according to the respondent was Dharamsala Guru Granth Sahib. A perusal of the statements of the appellant's own witnesses Sarwan Singh (P.W. 1), Gurcharan Singh (P.W. 2) and Brahm Nand (P.W. 3), it was abundantly clear that one room of the Dharamsala was kept for keeping Guru Granth Sahib and on certain occasions Guru Granth Sahib was also read. On the other hand Bhag Singh (R.W. 1) and Dharam Singh (R.W. 2). witnesses of the respondent clearly stated that the property in question was the property of notified Sikh Gurdwara and the land was given in muafi of Guru Granth Sahib and Guru Granth Sahib has its Parkash in this Dharamsala. Village Bhai Ke Phaphre consists of about 500 families and the village population is predominantly of Sikhs. There was only one Sikh Gurdwara in the whole of the village. There is clear admission by P.W. 2, Gurcharan Singh, a Lambardar and Panch of the Panchayat of village that in the plan portion marked 'X' was reserved for the Parkash of Guru Granth Sahib and marked 'Y' was set for marriage parties. The plan placed on record shows that the room meant for Parkash Sthan was of the size of 24 x 24'. The High Court has placed reliance on the above evidence and there is no reason to take a different view. The documentary evidence consisting of Jamabandi and the order passed by Superintendent of Settlement Operations (Ex. P-5) also support the case of the respondent. It cannot be said that the findings recorded by the High Court are based on no evidence or arbitrary in any manner.

7. In the result we find no force in this appeal and it is accordingly dismissed with no order as to costs. Appeal dismissed.

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