

# SUPREME COURT OF INDIA

Shiromani Gurudwara Prabhandhak Committee

Vs.

Mahant Lachhman Dass (Dead) through Lrs.

C.A.No.2459-60 of 1992

(S. Rajendra Babu and D.P. Mohapatra JJ.)

10.07.2002

## JUDGMENT

### **D.P. Mohapatra, J.**

1. In these appeals filed by special leave the Shiromani Gurudwara Prabhandhak Committee (for short `SGPC'), Amritsar, has challenged the common judgment of the High Court of Punjab and Haryana in First Appeal from Order Nos. 160/76 and 389/79, filed by Mahant Lachhman Dass (dead) through legal representatives, respondents herein. In the said judgment the Full Bench of the High Court allowed the appeal by majority (S.P. Goyal and D.S. Tewatia, J); reversed the judgment of the Tribunal and declared the Sri Guru Granth Sahib Udasi Dera as the owner of the properties in dispute; the third Judge. (Surender Singh, J.) struck a discordant note and dismissed the appeals.

2. A resume of relevant facts necessary for appreciating the questions raised may be stated thus : Fifty-nine Sikh worshippers of Gurudwara Sahib Guru Granth Sahib situated within the revenue estate of village Landa, Tehsil Sirhind, District Patiala of the State of Punjab submitted a petition under Section 7(1) of the *Sikh Gurdwaras Act, 1925* (Punjab Act No. 8 of 1925) (for short `the Act') for declaring the said Gurdwara a Sikh Gurdwara. The State Government by the notification No. 1480/GP dated 5.7.1963 issued under sub-section (3) of Section 7 of the Act declared the said Gurdwara as a Sikh Gurdwara enumerating therein the building and properties attached to the said Gurdwara which was claimed in the petition to belong to the said Gurdwara.

3. Mahant Lachhman Dass (deceased), Chela Mahant Moti Ram of village Landa, Tehsil Sirhind, Distt. Patiala, submitted two petitions to the State Government, one under Section 8 of the Act claiming that the place being ascertained was not a Gurdwara and another under Section 10 of the Act claiming a right in certain properties included in the list published under sub-section (3) of the Section 7 of the Act. The petition filed under Section 8 of the Act was dismissed by the Tribunal vide order dated 6.1.1972 with the finding that the Mahant was not a hereditary office holder of the institution in question and as such, had no *locus standi* to present any petition under Section 8 of the act. That decision was affirmed by

a Full Bench of the Punjab and Haryana High Court vide judgment dated 31.7.1975 in FAO No. 137/72.

4. The Tribunal also dismissed the petition under Section 10 of the Act. The plea raised by the Mahant before the Tribunal that the notified Sikh Gurdwara specified in the notification No. 1480-GP dt. 5.7.1963 was a different institution than the Dharamshala, which was occupied and managed by him, was overruled as an after thought. It is relevant to note here that in the petition filed under Section 10 of the Act the Mahant had pleaded that the property in dispute belonged to Dera Udasi and not to any Sikh Gurdwara and he was in possession of the same as Mahant of the said Dera.

5. In the written statement filed by the SGPC his claim was refuted and it was pleaded that the property in dispute belonged to the Sikh Gurdwara, and further that the Mahant was in possession of the property as a manager of the Sikh Gurdwara.

6. In support of his claim the Mahant adduced both oral and documentary evidence showing that the property belonged to Dharamshala which was a Udasi Dera and that the Gurdwara Sahib Guru Granth Sahib was a different entity situate in the said revenue estate. The stand was rejected by the Tribunal vide judgment dated March 1, 1976. It was held that the Gurdwara Sahib Guru Granth Sahib was the owner of the property in dispute.

7. Taking note of the case of the parties the Tribunal framed four issues :-

"1) Is any property the possession of which is claimed in the suit not covered by the decree passed in the petition under Section 10 of the Sikh Gurdwaras Act;

2) Is there any other valid reason for not granting the decree as prayed for;

3) Is the committee not properly constituted as the income of the Gurdwara is more than Rs. 3,000 per annum;

4) Was the Notification declaring the institution as a Sikh Gurdwara issued on 21.7.1978 and what is its effect on the declaration given by the Tribunal under Section 10 of the Sikh Gurdwara Act."

8. The Tribunal noted that no arguments were addressed on issue Nos. 1 and 3. On issue No. 1 the finding of the Tribunal was that the property, the possession of which was claimed in the suit, was fully covered by the decree passed in the petition under Section 10 of the Act. The Tribunal further noted that the following items of properties were declared to be the properties of the Gurdwara, namely, Gurdwara Sahib Guru Granth Sahib, situated within the revenue estate of Landa, Tehsil Sirhind, District Patiala, to which the Notification No. 1480-GP dt. 5th July, 19634 related :

"a) xxx xxx

b) Agricultural land measuring 85 bighas and 11 Biswas comprised in Khata No. 162 Khatauni Nos. 208 to 211, situate within the revenue estate of village Landa, as per Jamabandi for the year 1958-59 which appears at pages 1787 and 1788 of the above said Notification; and

c) Xxx xxx

d) Xxx xxx"

The Tribunal summed up the factual position found by it as follows:

"First, on the date the present suit is brought the Gurdwara in dispute has been notified as a Sikh Gurdwara. Secondly, according to the decision of the Tribunal the property now claimed in this suit has been declared in the petition under Section 10 to be the property of the aforesaid Gurdwara, and, thirdly, the suit has been brought within one year from the constitution of the committee. Consequently, according to the plaintiff-committee all the ingredients under Section 25-A have been satisfied."

9. In the judgment the Tribunal posed a question whether it could go into the questions raised in the petition under Section 10 regarding the property included in the lists published under sub-section (1) of Section 7 after it came to the conclusion, in the petition under Section 8, that the institution in dispute was a Sikh Gurdwara or after its finding that the petition under Section 8 was not filed by a competent person ? The Tribunal answered the question in the negative. It placed reliance on the decision of the Lahore High Court in *Hazara Singh and others v. Gurdit Singh and others*<sup>1</sup>. In that case the institution was declared a Sikh Gurdwara. The plaintiff claimed the endowed property as his personal property. The Tribunal decided the petition under Section 10 when the Gurdwara had not been notified as a Sikh Gurdwara because an appeal against the decision of the tribunal was pending in the High Court. It was held that the fact that the necessary notification was not issued was not material since the High Court confirmed the decree and therefore tribunal could not dispose of the petition. Relying on the principles laid down in that decision the Tribunal held that once a decision was given either under Section 16 declaring the institution as a Sikh Gurdwara or it dismisses the petition as being incompetent in either case the Tribunal would have no jurisdiction to proceed under Section 10 notwithstanding that the decision given by the Tribunal in petition under Section 8 is subject matter of an appeal before the High Court, because there had been no formal notification by the State Government under sub-section (1) of Section 9 or Section 17.

10. Regarding the suit filed under Section 25-A of the Act the Tribunal held that when such a suit comes for adjudication the Gurdwara in question has been notified as a Sikh Gurdwara, then the declaration given by the Tribunal about the right, title and interest in the immovable property belonging to such a Gurdwara even before the date of the notification would be fully covered by Section 25-A and would entitle the committee of the Gurdwara to ask for a decree for possession of such property. Summing up its findings the Tribunal observed:

"The position on the date of the filing of the suit, in the present case, undisputedly, is that the institution has been notified as a Sikh Gurdwara and there is in existence, a declaration given by the Tribunal in petition under Section 10 to the effect that the properties, of which the possession is being claimed in this suit belong to the Gurdwara in question. Thus, the requirement of Section 25-A have been fully complied with because the suit is being filed by the committee of the Gurdwara within the period prescribed."

10. Aggrieved by the order of the Tribunal the Mahant filed the appeal, FAO 160/76. During pendency of that appeal the SGPC filed a suit under Section 25-A of the Act for possession of the property declared to be belonging to the Sikh Gurdwara. The suit was decreed vide judgment dated 24.7.79. The Mahant challenged the said judgment by filing FAO No. 389/79 before the High Court. Both the appeals came up for hearing before a Division Bench of the High Court. One of the arguments raised by the counsel appearing for the SGPC was that the question as to whether the said Dharamshala was a Sikh Gurdwara could not be gone into by the Tribunal in view of the provisions of sub-section (2) of Section 9 of the Act which provides that the publication of a notification under provisions of sub-section (1) shall be conclusive proof that the Gurdwara is a Sikh Gurdwara. Looking to that importance of the question the appeal FAO 160/76 was referred to a larger Bench and the other appeal FAO 389/79 was ordered to be heard with it. That was how the matter was placed before the Full Bench of the High Court.

12. In the judgment the High Court formulated the controversy between the parties in the following terms: "the controversy between the parties is that according to the appellant the property in dispute belongs to Dharamshala Sri Guru Granth Sahib and not to the Sikh Gurdwara to which the notification relates, whereas according to the respondents Dharamshala Sri Guru Granth Sahib has nothing to do with the same institution which has been declared to be a Sikh Gurdwara through notification Ext. P3". The High Court noted that it was established beyond doubt from Ext. P4 and P6 and that was not disputed by the counsel for respondent that there were two institutions in existence at the time of the notification in the Revenue Estate of Landa which still continued to be there, one known as Dharamshala Guru Granth Sahib and the other as Sri Gurdwara Sahib Guru Granth Sahib. Referring to the relevant provisions of the Act and the scope of the proceedings initiated thereunder the learned Judge giving the majority opinion held, *inter alia*, that the petition filed under Section 10 of the Act by a person through appropriate Secretary to the Government was competent. The learned judges approved the ratio in the decision of the Full Bench decision of the Lahore High Court in *Lal Chand Mehra and others v. Local Committee of Management, Gurudwaras, Amritsar, Objector & Ors*<sup>2</sup>, in which it was laid down that a claim under Section 10 must be a personal claim and not a claim by a trustee. On the question of ownership of the property in dispute the majority took the view that Ext. P1, P2 and P3 establish the position that the property in dispute belonged to the Dharamshala. Further, the claim of the SGPC that the properties in dispute were of the Sikh Gurdwara was based on the sole ground that Dharamshala Guru Granth Sahib was in fact the same institution which was notified in Ext. P3 and once that contention was turned down the claim had to be negated.

13. The learned Judge who struck a discordant note formulated the question for consideration that it had to be judged if there was no genuine controversy as regards the identity of the institution which the respondent had claimed to be a Sikh Gurdwara and in regard to which the Notification under Sections 7(3) and 9(1) had been published. The learned Judge took note of the fact that the list of properties giving details thereof was annexed with the petition and that list formed a part of the notification No. 1480-GP dated 5.7.1963. On perusal of the notification the learned Judge noted that land measuring 85 kanals 11 marlas comprising of various khasra numbers was claimed as property of the Sikh Gurdwara described as "Gurudwara Sahib Guru Granth Sahib". Relying on the provision in Section 9(2) of the Act the learned Judge took the view that the publication of a Notification under section 9(1) of the Act was a conclusive proof that the Gurudwara regarding which the notification had been made was a Sikh Gurdwara and this matter could not be re-agitated even in different form. Taking note of the revenue records the learned Judge observed that it was obvious that the Notification in question related to the institution with which the land in dispute was associated and not to the other institution which was also a Sikh Gurdwara, in regard to property of which there was never any dispute between the parties. The learned Judge upheld the objection raised by the counsel for respondent against maintainability of the petition under Section 10 of the Act filed by the appellant. On the discussion made in the judgment the learned Judge held that no declaration could be made in favour of the Dharamshala as was proposed by the other learned Judges. For reasons discussed in the dissenting opinion the learned Judge dismissed the appeals.

14. In view of the majority judgment, FAO No. 160/76 and FAO No. 389/79 were allowed and the judgment of the Tribunal was reversed and the Dharamshala was declared to be the owner of the properties in dispute. The said judgment is under challenge in the present appeals.

15. The Sikh Gurdwaras Act, 1925 was enacted with the object of providing a legal procedure by which such Gurdwaras and Shrines as are, owing to their origin and habitual use, regarded by Sikhs as essentially places of Sikh worship, may be brought effectively and permanently under Sikh control and their administration reformed so as to make it consistent with the religious views of that community. The expression "Notified Sikh Gurdwara" is defined in Section 2(12) to mean any Gurdwara declared by notification by the State Government under the provisions of this Act to be a Sikh Gurdwara.

16. Chapter II of the Act contains the provisions for making petitions to the State Government relating to a Gurdwara. Section 3 makes provisions regarding list of properties of schedule Gurdwara to be forwarded to the State Government. Under this Section any Sikh or any present office-holder of a Gurdwara specified in Schedule I or added thereto by the Amending Act, may forward to the State Government through the appropriate Secretary to Government so as to reach the Secretary within ninety days of the commencement of this Act, or, in the case of the extended territories, within one hundred and eighty days of the commencement of the Amending Act, as the case may be, a list, signed and verified by himself, of all rights, titles or interests in immovable properties situated in Punjab inclusive

of the Gurdwara and in all monetary, endowments yielding recurring income or profit received in Punjab which he claims to belong, within his knowledge, to the Gurdwara, the name of the person in possession of any such right, title or interest, and if any such person is insane or a minor, the name of his legal or natural guardian, or if there is no such guardian, the name of the person with whom the insane person or minor resides or is residing, or if there is no such person, the name of the person actually or constructively in possession of such right, title or interest on behalf of the insane person or minor, and if any such right, title or interest is alleged to be in possession of the Gurdwara through any person, the name of the such person, shall be stated in the list.

17. In sub-section (2) of Section 3 it is laid down that on receiving a list duly forwarded under the provisions of sub-section (1) the State Government shall, as soon as may be, publish a notification declaring that the Gurdwara to which it relates is a Sikh Gurdwara and, after the expiry of the period provided in sub-section (1) for forwarding lists shall, as soon as may be, publish by notification a consolidated list in which all rights, titles and interests in any such properties as are described in sub-section (1) which have been included in any list duly forwarded, shall be included, and shall also cause the consolidated list to be published, in such manner as may be prescribed, at the headquarters of the district and of the tahsil and in the revenue estate where the Gurdwara is situated, and at the headquarters of every district and of every tahsil and in every revenue estate in which any of the immovable properties mentioned in the consolidated list is situated and shall also give such other notice thereof as may be prescribed.

18. In sub-section (4) of Section 3 which deals with effect of publication of the declaration and the consolidated list under sub-section (2) it is provided that the publication of a declaration and of a consolidated list under the provisions of sub-section (2) shall be conclusive proof that the provisions of sub-sections (1), (2) and (3) with respect of such publication have been duly complied with and that the Gurdwara is a Sikh Gurdwara, and the provisions of the Part II shall apply to such Gurdwara with effect from the date of the publication of the notification declaring it to be a Sikh Gurdwara.

19. In sub-section 5(1) of Section 3 it is laid down that any person may forward to the State Government through the appropriate Secretary to Government so as to reach the Secretary within ninety days or in the case of the extended territories, within the one hundred and eighty days from the date of the publication by notification of the consolidated list under the provisions of sub-section (2) of Section 3, a petition claiming a right, title or interest in any property included in such consolidated list except a right, title or interest in the Gurdwara itself.

20. In sub-section (3) of Section 5 provision is made regarding notification of property not claimed under sub-section (1) and the effect of such notification. It is laid down therein that the State Government shall, as soon as may be, after expiry of the period for making a claim under the provisions of sub-section (1) publish a notification specifying the rights, titles or interests in any properties in respect of which no such claim has been made; and the

publication of the notification shall be conclusive proof of the fact that no such claim was made in respect of any right, title or interest specified in the notification.

21. In Section 7 of the Act provision is made for filing of a petition to have a Gurdwara declared as a Sikh Gurdwara. In sub-section (1) thereof it is laid down that any fifty or more Sikh worshippers of a Gurdwara, each of whom is more than twenty-one years of age and was on the commencement of this Act or in the case of extended territories from the commencement of the Amending Act, resident in the police station area in which the Gurdwara is situated, may forward to the appropriate Secretary to Government so as to reach him within one year from the commencement of this Act or within such further period as the State Government may by notification fix for the purpose, a petition praying to have the Gurdwara declared to be a Sikh Gurdwara.

22. Sub-section (2) of Section 7 provides that a petition forwarded under the provisions of sub-section (1) shall state the name of the Gurdwara to which it relates and of the district, tahsil and revenue estate in which it is situated, and shall be accompanied by a list, verified and signed by the petitioners, of all rights, titles or interest in immovable properties situated in Punjab inclusive of the Gurdwara and in all monetary endowments yielding recurring income or profit received in Punjab, which the petitioners claim to belong within their knowledge to the Gurdwara the name of the person in possession of any such right, title or interest, and if any such person is insane or a minor, the name of his legal or natural guardian, or if there is no such guardian, the name of the persons with whom the insane person or minor resides or is residing, or if there is no such person, the name of the person actually or constructively in possession of such right, title or interest on behalf of the instance person or minor, and if any such right, title or interest is alleged to be in possession of the Gurdwara through any person the name of such person shall be stated in the list; and the petition and the list shall be in such form and shall contain such further particulars as may be prescribed.

23. In sub-section (4) of Section 7 provision is made for service of notice of claims to property to be sent to persons shown in the list as in possession. It is provided therein that the State Government shall also, as soon as may be, send by registered post a notice of the claim to any right, title or interest included in the list to each of the persons named therein as being in possession of such right, title or interest either on his own behalf or on behalf of an insane or minor or on behalf of the Gurdwara.

24. The effect of publication of petition and list under sub-clause (3) is laid down in sub-section (5) of Section 7. It is laid down that the publication of a notification under the provisions of sub-section (3) shall be conclusive proof that the provisions of sub-sections (1), (2), (3) and (4) have been duly complied with.

25. In Section 8 provision is made for filing a petition to have it declared that a place asserted to be a Sikh Gurdwara is not such a Gurdwara. It is laid down therein that when a notification has been published under the provisions of sub-section (3) of Section 7 in respect of any Gurdwara, and hereditary office-holder or any twenty or more worshippers of the

Gurdwara, each of whom is more than twenty-one years of age and was on the commencement of this Act or, in the case of the extended territories, on the commencement of the Amending Act, as the case may be, a resident of a police station area in which the Gurdwara is situated may forward to the State Government, through the appropriate Secretary to Government so as to reach the Secretary within ninety days from the date of the publication of the Notification, a petition signed and verified by the petitioner, or petitioners, as the case may be, claiming that the Gurdwara is not a Sikh Gurdwara, and may in such petition make a further claim that any hereditary office-holder under the system of management prevailing before the first day of January, 1920, or, in the case of the extended territories, before the 1st day of November, 1956, as the case may be, may be restored to office on the grounds that such Gurdwara is not a Sikh Gurdwara and that such office-holder ceased to be an office-holder after that day.

26. Section 9 which makes provision regarding effect of omission to present a petition under Section 8 lays down in sub-section (1) that if no petition has been presented in accordance with the provisions of Section 18 in respect of a Gurdwara to which a notification published under the provisions of sub-section (3) of Section 7 relates, the State Government shall after the expiration of ninety days from the date of such notification, publish a notification declaring the Gurdwara to be a Sikh Gurdwara.

27. Section 10 of the Act, which is particularly relevant determination of the dispute in the present case, is quoted hereunder :

*"10. Petition of claim to property including in a list published under sub-section (3) of section 7 - (1) Any person may forward to the state government through the appropriate secretary to government so as to reach the secretary within ninety days from the date of publication of a notification under the provisions of sub-section (3) of section 7, a petition claiming a right, the or interest in any property included in the list so published.*

*(2) Signing and verification of petitions under sub-section (1) - A petition forwarded under the provisions of sub-section (1) shall be signed and verified by the person forwarding it in the manner provided by the Code of Civil Procedure, 1908 (5 of 1908) for the signing and verification of plaints, and shall specify the nature of the right, title or interest claimed and the grounds of the claim.*

*(3) Notification of property not claimed under sub-section (1) and effect of such notification. - The state government shall as soon as may be after the expiry of the period for making a claim under the provisions of sub-section (1) publish notification, specifying the rights, titles or interest in any properties in respect of which no such claim has been made, and the notification shall be conclusive proof of the fact that no such claim was made in respect of any right, title or interest specified in the notification."*

28. Chapter III of the Act enumerates the provisions relating to appointment of and proceedings before a Tribunal for the purpose of deciding claims made in accordance with the provisions of the Act.

29. In Section 14 thereof it is provided that the State Government shall forward to a Tribunal all petitions received by it under the provisions of Sections 5, 6, 8, 10 and 11, and the tribunal shall dispose of such petitions by order in accordance with the provisions of this Act. In sub-section (2) it is laid down that the forwarding of the petitions shall be conclusive proof that the petitions were received by the State Government within the time prescribed in sections 5, 6, 8, 10 and 11 as the case may, and in the case of a petition forwarded by worshippers of a gurdwara under the provisions of section 8, shall be conclusive proof that the provisions of section 8 with respect to such worshippers were duly complied with.

30. In section 16(1) it is laid down that notwithstanding anything contained in any other law in force, if in any proceeding before a tribunal it is disputed that a gurdwara should or should not be declared to be sikh gurdwara, the tribunal shall, before enquiry into any other matter in dispute relating to the said gurdwara, decided whether it should or should not be declared a sikh gurdwara in accordance with the provisions of sub-section (2).

31. Section 18 of the Act deals with the presumption of favour of a notified sikh gurdwara on proof of certain facts when a claim to property is made by an office-holder. The section reads as follows:

"18. Presumption in favour of a notified sikh gurdwara on proof of certain facts when a claim to property is made by an office-holder - (1) In any proceeding before a tribunal, if any past or present officer-holder denies that a right, title, or interest recorded, in his name or in that of any person through whom claims, in a record of rights, or in an annual record, prepared in accordance with the provisions of the *Punjab Law Revenue Act, 1887* (17 of 1987), and claimed to belong to a Notified Sikh Gurdwara, does so belong, and claims such right title or interest to belong to himself shall, notwithstanding anything contained in Section 44 of the said Act, be a presumption that such right title or interest belongs to the Gurdwara upon proof of any of the following facts, namely –

(a) an entry of the right, title or interest made before the first day of January, 1920 [or, in the case of the extended territories, before the 1st day of November, 1956, as the case may be,] in a record-of-rights, prepared at the time of a general assessment of the land revenue, in the name of the Gurdwara or in the name of the holder of an office pertaining to the Gurdwara as such, and not by name;

(b) an assignment of the land revenue of, or of the proprietary right in, land at any time for the service or maintenance of the Gurdwara notwithstanding that the assignment may be or may have been in the name of an office-holder, where the right claimed is an assignment of the land revenue of, or of the proprietary right in, the land, as the case may be;

(c) the dismissal or removal of an office-holder before the first day of January, 1920 [or, in the case of the extended territories, before the 1st day of November, 1956 as the case may be,] and the consequent transfer of the right, title or interest in question to his successor in office;

(d) the expenditure of the whole or part of the income derived from the right, title or interest in question ordinarily on the service or maintenance of the Gurdwara;

(e) the acquisition of the right, title or interest in question from funds proved to have belonged to the Gurdwara;

(f) the submission by the office-holder or any of his predecessors-in-office of accounts relating to the income from the right, title or interest in question to the worshippers or to a managing body;

(g) the devolution of the succession to the right, title or interest in question from an office-holder to the successor-in-office as such on two or more consecutive occasions;

(h) any other fact which shows that the right, title or interest in question was at any time of the nature of a trust pertaining to the Gurdwara or was purchased from funds of the nature of trust funds pertaining to the Gurdwara.

(2) The provisions of sub-section (1) shall also apply to a claim to a right, title or interest made by any person deriving title subsequent to the first day of January, 1920 [or, in the case of the extended territories, subsequent to the first day of November, 1956 as the case may be,] from a past or present office-holder."

32. Section 25-A, which was added by Punjab Act 3 of 1930, lays down that when it has been decided under the provisions of this Act that a right, title or interest in immovable property belongs to a Notified Sikh Gurdwara, or any person, the Committee of the Gurdwara concerned or the person in whose favour a declaration has been made may, within a period of one year from the date of the decision or the date of the constitution of the Committee, whichever is later, institute a suit before a tribunal claiming to be awarded possession of the right, title or interest in the immovable property in question as against the parties to the previous petition and the tribunal shall, if satisfied that the claim relates to the right, title or interest in the immovable property which has been held to belong to the Gurdwara, or to the person in whose favour the declaration has been made, pass a decree for possession accordingly.

33. Section 27 makes the provision regarding treatment of property dedicated to a Notified Sikh Gurdwara to remain under management of trustees.

34. From the statutory provisions of the Act noted above it is clear to us that the scheme of the statute is comprehensive and self-contained. The statute makes provisions for declaration

of a Sikh Gurdwara including its properties and for vesting the management of the affairs of the said Gurdwara and its properties in the Committee. Provisions have been made setting out in detail the manner of the submission of petitions under different Sections and the procedure for dealing with the same. Provisions have also been made laying down the consequence of failure to submit a petition or non-inclusion of properties in the list. Presumption of due compliance with the prescribed procedure has been made in the Sections under which objections are to be filed.

35. Coming to the case in hand, as noted earlier, on a petition filed by fifty-nine Sikh worshippers Shri Guru Granth Sahib was declared as a Sikh Gurdwara under Section 7 of the Act. There was no challenge to the Notification issued in that regard. The property in dispute in the present proceeding was included as an item of asset of the Gurdwara. The attempt made by the respondent herein to raise the question that the property belonged to Dharamshala Guru Granth Sahib and that it was not a Gurdwara was summarily rejected and the petition filed under Section 8 of the Act was maintainable as the petitioner was not a hereditary office-holder. However, on receipt of the petition under Section 10 of the Act from the appellants the State Government referred to the matter to the Tribunal for adjudication and the Tribunal on consideration of the case of the parties and on appreciation of the evidence adduced in the case held that the property in dispute was a part of the Sikh Gurdwara which was notified under Section 7 of the Act. The High Court as evident from the judgment appears to have proceeded on assumption that Dharamshala Guru Granth Sahib was not a part of the Sikh Gurdwara but an institution independent of it. This was the very question which was referred to the Tribunal for consideration and the Tribunal had determined the matter holding in favour of the appellants. The High Court (majority opinion), in our view, made an erroneous approach to the matter in assuming the very question which was to be determined. The High Court did not deal with the reasons discussed in the order of the Tribunal which is an adjudicatory body specially set up for adjudication of the disputes under the Act. The High Court failed to attach due importance to the findings of the Tribunal.

36. We are, therefore, not persuaded to maintain the judgment of the High Court. Accordingly, the appeals are allowed. The Judgment under challenge is set aside and the judgment of the Tribunal is restored. In the circumstances of the case there will be no order for costs.

Appeal allowed.

<sup>1</sup>*AIR 1936 Lahore 807*

<sup>2</sup>*AIR 1937 Lahore 106*