

LAHORE HIGH COURT

Committee of Management of Gurdwaras

Vs

Indar Singh

(Addison and Currie, JJ.)

23.10.1933

JUDGMENT

Addison, J.

1. The property in suit consists of a bunga, called Bunga Man Khaira, along with three shops attached thereto. It was claimed on behalf of the Sri Harmandir Sahib, that is, the Golden Temple, in the usual consolidated list published under the provisions of Section 3(2) of the Sikh Gurdwaras Act with Government Notification No. 269-G dated the 13th of December 1927. This notification resulted in two petitions, namely, the one which is before us and the other No. 1341, lodged by certain Jagirdars of village Sarhali, Tahsil Phillaur, District Jullundur. These Jagirdars claimed that the bunga had been built by their ancestor Sardar Nahar Singh who originally lived in Man Khaira. As the descendants of the founder of the bunga these Jagirdars claimed that it belonged to them. The Shromani Gurdwara Parbandhak Committee came to terms with these Jagirdars and a declaration was given by the Sikh Gurdwaras Tribunal in terms of the compromise. According to it, the bunga and attached shops were recognised as waqf property under the management of the Sardars of Sarhali who were to let the shops and maintain the bunga out of the rent. The appointment of a bungai or custodian was left in the hands of the Sardars who had power to change these custodians at any time and appoint a new one. It was allowed that pilgrims could stay in the bunga when visiting the Golden Temple.

2. The present petition was put in by three persons, Indar Singh and Sundar Singh, sons of Hari Singh, and their cousin Sant Singh. They claimed the property as their own. They said that the main property was a stable known as Bunga Jiwan Singhwala, the three shops being part of that stable. They claimed the property as an inheritance derived from their ancestors who had constructed the building at their own cost. They further stated that they had been exercising full proprietary rights for sixty years and that the property had no connection with the Golden Temple and was not dedicated to its service. In this petition the issues framed at first were the two following: (1) Is the Harmandir Sahib the owner of the property in dispute? (2) Is the claim of the Harmandir Sahib within time? An application was then made by the Shromani Gurdwara

Parbandhak Committee to amend the issues. It was claimed that the proper issue was: "Are! the petitioners the owners of the property in dispute?" This application was rejected by a majority of the Tribunal, the President and one member holding that the persons who were in the position of plaintiffs were the Shromani Gurdwara Parbandhak Committee and that the petition of Indar Singh and the two others was merely in the nature of a counter-petition or counter-claim. The third member of the Tribunal, Sardar Kartar Singh, held that it was for the petitioners to establish their right, title or interest in the property in accordance with the provisions of Section 5(1) of the Act and that the proper issue in view of the fact that the petitioners were in possession should be as follows: Are the petitioners not the owners of the property in dispute?" Later, however, the Tribunal added the issue: (3) "Are the petitioners in possession of the Bunga as bungais and on behalf of Sri Harmandir Sahib?"

3. On the merits, all the members of the Tribunal held that the petitioners were mere bungais or custodians of the bunga. A majority of the Tribunal further held that it had not been proved that the Golden Temple was owner of this bunga by dedication. This majority, therefore, granted a decree to the effect that the Durbar Sahib had no proprietary rights in the property in dispute of which the petitioners were the bungais. Against this decision, this appeal has been preferred.

4. I have no hesitation in holding that the decision of the majority of the Tribunal to the effect that the petition of Indar Singh and the two others was in the nature of a counter-petition and that it was the duty of the Shromani Gurdwara Parbandhak Committee, at whose instance the property was included in the consolidated list, to prove their ownership, is wrong. After the consolidated list is published, the person who can come forward under Section 5(1) of the Act is one who claims) a right, title or interest in the property included in such consolidated list. If such a person does not come forward, the Local Government must under the provisions of Section 5(3) of the Act publish a notification specifying the right, title or interest of any properties in respect of which no such claim has been made. Thereupon the Shromani Gurdwara Parbandhak Committee has the right under Section 28 of the Act to bring a suit for possession of that property which in the ordinary course of events must be automatically decreed. There is no doubt, therefore, that it was for Indar Singh, his brother and cousin to prove that they had a right, title or interest in the property.

5. The decree, as already stated, was to the effect that the Golden Temple had no proprietary rights in the property in dispute of which the petitioners were the bungais. Indar Singh and the two others have not appealed against that portion of the decree which gives them the position of mere bungais or custodians, and it was not seriously urged before us that they were owners and not bungais or custodians. In any case, the evidence on the record is ample to establish that they are mere bungais or custodians. Bungas are defined in *Mehr Singh v. Socket Singh*¹ as follows:

Bungas are hostels where pilgrims coming from various parts of India to pay a visit to the Golden Temple stay. These hostels were founded by rich men, especially by the Rajas and

were dedicated to the public as wakf property. There was appointed in each bunga a custodian called bungai whose duty was to read Granth Sahib and arrange for the comfort of the pilgrims staying in the bunga and keep the bunga in a proper order. This shows that the bungas are partly religious and partly charitable institutions and the office of Manager¹(1917) (9) P.R. 1917

may therefore be said to partake of the nature of a religious office. The Manager, if he has any powers at all, may himself be the bungai or he may appoint some one else to perform the duties of the bungai who has to read the Granth Sahib. His other duties are to look after the visitors and to take proper care of the building.

6. It may be noticed here that the manager mentioned was a descendant of the founder and not the bungai, who is a mere custodian appointed usually by a descendant of the founder. The waqf nature of the property was also recognized in a Division Bench judgment in *Gahl Singh v. Surjan Singh*² It seems to me therefore that the finding of the tribunal that the three petitioners were mere bungais, a finding which is incorporated in the decree and which has not been appealed against, should have resulted in the dismissal of the petition in which the three petitioners claimed that they were full owners of the property in question. They have not only failed to prove the position taken by them but it was established that they were not owners but mere bungais. Further it seems to me that the question whether the property is dedicated to the Golden Temple does not arise in this petition. That question has already been settled by compromise in the other petition in which the rights of the Shromani Gurdwara Parbandhak Committee and the local committee of management and the rights of the descendants of the founder have been settled. This question therefore no longer remains to be decided and need not be discussed by me except to note that the learned President and one member of the tribunal held that it had not been proved that the property was dedicated to the Golden Temple while the third member held that there was sufficient proof of this. In my opinion the question does not arise as it is settled by the compromise in the other petition, that compromise decree providing amongst other things as to who has the right of removing a bungai or custodian and otherwise controlling him. Of course the bungais, are never removed, it will be open to them to raise whatever defences are open to them as bungais.

7. In the result, I would accept the appeal and dismiss the petition of Indar Singh, Sundar Singh and Sant Singh, claiming the property as owners as they have been properly held to be mere bungais or custodians. They will pay to the appellants the costs of this appeal.

Currie, J.

8. I agree.

² A.I.R. 1920 Lah. 271