

LAHORE HIGH COURT

Sohan Das

Vs

Bela Singh

(Monroe, J.)

15.11.1933

JUDGMENT

Monroe, J.

1. This petition was brought under Section 8, Sikh Gurdwaras Act, by Sohan Das ; he asserts that he is the mahant of the dharamsala situated at Sangatpura in the Amritsar District and claims that the dharamsala is not a Sikh Gurdwara. The only issue was whether the place in dispute was a Sikh Gurdwara and by a majority the Tribunal dismissed the claim. The petitioner has appealed to this Court. The evidence of the origin of the dharamsala is very scanty and all that can be said is that the institution is an old one. I do not think, as the learned President of the Tribunal thought, that it is justifiable to assign any particular date for its foundation. I think however that it may be taken that the institution came into existence before the end of the eighteenth century. From its foundation till the present day the mahants have been udasis and it is on this fact and the fact that there are at the dharamsala samadhs of the petitioner's ancestors that his contention is based. These facts are however colourless, for they may exist in the case of a Gurdwara which is a Sikh Gurdwara; the onus was on the objectors to establish the character of the institution. The evidence is sufficient, in my opinion, though scanty. There was an inquiry in connexion with muafi of the dharamsala in 1853 from which the earliest documents about the institution date; the Patwari of Sangatpura was asked to report about the existence of Makan Dharamsala and the recitation of the Granth in the said Makan and Samadh,

2. The answer is brief :

The Dharamsala is built of kacha masonry; the Granth is recited (Ex. 0-5).

3. On a review of the Muafi in 1890, Ram Das, the mahant, stated that the Granth was recited, but did not refer to Samadh worship (Ex. O.8). On a further review in 1911, the petitioner and his brother who was then mahant put in a statement in which again the only reference to religious usage was found in connexion with the Granth. We both the brothers render services. The Granth

Sahib is kept. We both the brothers are literate and recite it turn by turn.

4. Afterwards a number of the villagers, all Sikhs, complained of the conduct of Sham Das and on 25th July 1912, an order was made by the Deputy Commissioner of Amritsar for a mutation of the muafi in the name of the dharamsala with Sohan Das as Manager. The documentary evidence therefore establishes that the dharamsala has been a place of public worship since 1853, and that such worship has been connected with the Granth Sahib. A further important fact is that this village is a Sikh village in a District (Amritsar) where the Sikh were active in the middle of the eighteenth century. There is no documentary evidence about the period since 1912; the learned President has very properly not attached any weight to the witnesses called by the petitioner; they are as to six non-residents in the village, and the remaining three are not persons on whose evidence a Court could safely act. The petitioner's own evidence was that the samadhs of his ancestors were in the dera and that he worshipped them; he had with other books a copy of the Granth Sahib in his almirah, but his suggestion was that it was not used. In the face of his own statements to which I have referred above, his evidence carries no weight. The evidence for the objectors fully establishes that the worship practised since 1912 is Sikh: as there is no documentary evidence of the early existence of a samadh and particularly as there is no reference to a Samadh in the petition of the petitioner and his brother of 1912, I am prepared to accept the evidence of the objectors that the existence of a samadh dates only from recent times, more than probably after the Sikh Gurdwara controversy had become acute and the importance of a samadh had been realized by the Udasi Mahants. I hold therefore that the evidence supports the conclusion of the majority of the Tribunal that this institution falls within Section 16 (2) (iii) of the Act and I would dismiss this appeal with costs.

Addison, J.

5. I concur.