

assistance to the argument on the side of the landlord because that was a case under section 246 of the Calcutta Municipal Act, 1951, which provision also is not parallel to section 14 of the Act and further the Corporation rates there were paid by the tenant and there was no question of the transfer of the rent, payable by a tenant to a landlord, from the latter either to the Corporation or to the authority under the Calcutta Municipal Act, 1951. These two cases are, therefore, not relevant so far as the present case is concerned.

(4) In consequence, this revision application fails and is dismissed with costs, counsel's fee being Rs. 60.

K. S.

APPELLATE CIVIL

Before Harbans Singh, J.

SHRI GURU GRANTH SAHIB KHOJE MAJRA THROUGH BAKHSHISH SINGH-NIHANG SINGH,—Appellant.

versus

NAGAR PANCHAYAT KHOJE MAJRA AND SANIPUR THROUGH PARMESHRA SINGH SARPANCH,—Respondent.

Regular Second Appeal No. 1497 of 1959

February 24, 1969.

Practice—Parties—“Gurdawara”—Whether a juristic person—Suit in the name of a Gurdawara through its manager—Whether can be instituted

Held, that Gurdawara is essentially a place in which Shri Gurugranth Sahib is established and where worship of Shri Gurugranth Sahib takes place. A person can endow property for the establishment of a Gurdawara for the preachings contained in Shri Gurugranth Sahib and its worship. Shri Gurugranth Sahib is accepted by the Sikhs as being the spiritual incarnation of all the ten gurus because the preachings and sayings of the Gurus as well as certain other saints accepted by the Gurus are incorporated therein. A Gurdawara, therefore, in which Shri Gurugranth Sahib is established for worship would amount to an institution having the same character as a temple or a Mutt and would be a juristic person and its manager would be in the same position as the manager of a temple or any other debutter property. A Gurdawara, therefore, is a juristic

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person which can own property and can bring a suit in its name to protect the property owned by it through its manager. Shri Gurugranth Sahib can exist only in a Gurdwara and as Gurdwara is a juristic person, the suit can always be brought in the name of a Gurdawara.

(Paras 3 & 4)

Regular Second Appeal from the decree of the Court of Shri E. F. Barlow, District Judge, Patiala, dated the 23rd September, 1959, reversing that of Shri Purmohk Kumar Bahri, Sub-Judge, IV Class, Bassi, dated 27th February, 1959, and dismissing the suit.

J. K. KHOSLA, ADVOCATE, for the Appellant.

B. S. JAWANDA, ADVOCATE, for the Respondent.

JUDGMENT

HARBANS SINGH, J.—A suit was brought in the name of Shri Gurugranth Sahib *asthapat* Shri Gurdwara Sahib Khoje Majra through Bakhshish Singh against the Nagar Panchayat for permanent injunction restraining the defendant-Panchayat from interfering with the property of the plaintiff comprised in Khasras Nos. 346 and 349. In the plaint, it was stated that in case it was found that Shri Gurugranth Sahib was not a juristic person, the suit may be treated as having been brought by Shri Gurdwara Sahib, Khoje Majra through Bakhshish Singh.

(2) A preliminary objection was taken challenging the juristic nature of Shri Gurugranth Sahib, but no issue was settled as regards this and apparently this was not pursued. The main contest in the Court below was regarding Bakhshish Singh's *locus standi* to act for the Gurdawara. The only issue was whether the plaintiff is the owner of the property. The trial Court found this issue in favour of the plaintiff and granted the decree. In appeal before the learned District Judge, Patiala, objection was taken that the suit was not in a proper form. The learned lower appellate Court came to the conclusion that Shri Gurugranth Sahib was not a juristic person, nor was a Gurdwara such a person. On this point alone, without giving any decision on the merits of the case, the appeal was accepted and the suit was dismissed. The present appeal was filed by the plaintiff in the year 1959 against this order. It is really unfortunate and highly regrettable that no steps were taken to have this case disposed of expeditiously

with the result that it has taken ten years before it has come up for hearing.

(3) The sole point in the case is whether a Gurdawara or Shri Guru-granth Sahib or both are juristic persons and are capable of owning property and enforcing legal rights. In the case of *Mosque known as Masjid Shahid Ganj and others v. Shiromani Gurdwara Parbandhak Committee, Amritsar and another* (1), Sir George Rankin speaking for their Lordships of the Privy Council observed as follows:—

“The question whether a British Indian Court will recognise a mosque as having a *locus standi in judicio* is a question of procedure. In British India the Courts do not follow the Mahomedan law in matters of procedure any more than they apply the Mahomedan criminal law or the ancient Mahomedan rules of evidence. At the same time the procedure of the Courts in applying Hindu or Mahomedan law has to be appropriate to the laws which they apply. Thus the procedure in India takes account necessarily of the polytheistic and other features of the Hindu religion and recognised certain doctrines of Hindu law as essential thereto, e.g., that an idol may be the owner of property. The procedure of our Courts allows for a suit in the name of an idol or deity though the right of suit is really in the shebait.”

Mr. B. K. Mukherjea, fourth Chief Justice of the Republic of India, in his well-known treatise “The Hindu Law of Religious and Charitable Trust” at page 293 while dealing with the juristic nature of the Mutt, observed as follows:—

“Having dealt with religious trusts known as debutter, the essential element in which is a deity or an idol, we now come to the other and equally important type of Hindu religious endowment which is described as Mutt or Muttum. “Mutt” in ordinary language signifies an abode or residence of ascetics. In legal parlance it connotes a monastic institution presided over by a superior and established for the use and benefit of ascetics belonging to

(1) A.I.R. 1940 P.C 116.

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a particular order who generally are disciples or co-disciples of the superior”.

Whereas an idol was something corporate established in a temple, Mutt is merely an institution, Still it has been recognised that Mutt can own property. In a Full Bench case *Mahant Lachman Dass Chela Mahant Ishar Dass v. The State of Punjab* (2). Mr. Justice Narula, delivering the judgment for the Bench, observed as follows:—

“Dealing with the question of limitation in *Sarangadeva periya Matam and another v. Ramaswami Goundar* (3), Bachawat, J., observed that the Mutt is the owner of the endowed property and that like an idol the Mutt is a juristic person having the power of acquiring, owning and possessing property and having the capacity of suing and being sued. The learned Judge held—

“Being an ideal person it must of necessity act in relation to its temporal affairs through human agency.”

In the above-mentioned case, the question before the Bench was the *vires* of a number of provisions of the Sikh Gurdawara Act where the word Gurdawara is used as owing or possessing some property. The argument was that the word “Gurdwara” is used to indicate the building in which worship is done and therefore being an immovable property itself. it cannot own other property. In a detailed judgment, Mr. Justice Narula, speaking for the Bench came to the conclusion that a Gudawara. like a Mutt or a temple, in which worship takes place, is an institution distinct from the Gurdwara as the building of brick and mortar. At page 550 of the report, Mr. Justice Narula observed as follows:—

“From the above discussion of the law on the subject it is clear that though juristic personality carrying with it the *locus standi* to institute a suit or initiate an action in a Court of law necessarily depends on the procedural and

(2) I.L.R. 1968 499.

(3) A.I.R. 1966 S.C. 1603.

municipal law of a country, it has all along been recognised by jurists and by the highest Courts that an institution in the sense of a fictitious corporation composed of an idea or a purpose such as a Mutt for purposes germane to the same, and such as a mosque for the purposes of Muslim worship can exist in the eyes of law wholly independently of and separate from the property belonging to such an institution, i.e., independently of the building of the Mutt or the building of the mosque itself. It is, therefore, nothing strange that the Punjab Legislature while using the word "Gurdawara" in some parts of the Act intended therein to refer to the institution of the Gurdawara and not to the physical Gurdawara of brick and mortar".

Gurdwara is essentially a place in which Shri Gurugranth Sahib is established and where worship of Shri Gurugranth Sahib takes place. A person can endow property for the establishment of a Gurdwara for the preachings contained in Shri Gurugranth Sahib and its worship. Therefore, Gurdwara implies an idea or a purpose germane to the idea or the purpose like a Mutt or a temple. At page 65 of Mukherjee's book mentioned above, it is mentioned as follows:—

"Where a building was constructed in memory of a Guru, who was regarded as an incarnation of God, and his image was installed in it and regularly worshipped, it was held that the institution was a religious endowment of the same character as a temple, and was a juristic person, and its manager was in the same position as a Shebait."

The case cited for the above observations is *Gajanan Marari v. Ramarao* (4).

(4) Shri Gurugranth Sahib is accepted by the Sikhs as being the spiritual incarnation of all the ten Gurus because the preachings and saying of the Gurus as well as certain other saints accepted by the Gurus are incorporated therein. A Gurdwaras, therefore, in which Shri Gurugranth Sahib is established for worship would amount to an institution having the same character as a temple or a

(4) I.L.R. 1954 Nag. 302.

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Mutt and would be juristic person and its manager would be in the same position as the manager of a temple or any other debutter property. I have, therefore, no hesitation in holding that a Gurdwara is a juristic person which can own property and can bring a suit in its name to protect the property owned by it through its manager. In view of this, it is not necessary to go into the further question whether Shri Gurugranth Sahib is also a juristic person. Shri Gurugranth Sahib can exist only in a Gurdwara and as Gurdwara is a juristic person, the suit can always be brought in the name of a Gurdwara.

(5) In view of the above, I direct that the suit shall be treated as having been brought by Gurdwara Sahib Khoje Majra and the words "Shri Gurugranth Sahib Asthapat" may be treated as redundant. This appeal is, therefore, accepted, the order of the lower appellate Court is set aside and the case is remanded to the District Judge, Patiala, for deciding the appeal on merits. The counsel will direct the parties to appear before the District Judge, Patiala on 24th of March, 1969 for taking further date. The records will be sent back immediately. On 24th of March, 1969, the learned District Judge will give a short date for arguments and decide the case expeditiously in accordance with law. The petitioner will have his costs in this Court from the respondent.

R. N. M.

CIVIL MISCELLANEOUS

Before Bal Raj Tuli, J.

M/S. THE BHATINDA CENTRAL CO-OPERATIVE BANK, LTD.,
BHATINDA,—Petitioner.

versus

THE STATE OF PUNJAB AND OTHERS,—Respondents.

Civil Writ No. 307 of 1968

February 24, 1969.

Punjab Co-operative Societies Act (XXV of 1961)—Section 55—Disputes for reference to arbitration under—Whether include disputes between a co-operative Society and its employees concerning their conditions of employment, removal from service or supersession in matters of promotion—Such disputes—Whether can be referred for adjudication to a Labour Court—Section 82—Whether a bar to such reference.