

to mediate with the co-operative society for settling the claim of the plaintiff who intended to file the suit. The power of the Registrar can be invoked for this purpose only if he has jurisdiction in the matter and he can exercise his power in that behalf to compel the co-operative society to decide the matter in certain manner. If he cannot exercise that power, then there is no point in giving a notice to him before filing any suit against the co-operative society.

(3) For the reasons given above, there is no merit in this petition which is dismissed but without any order as to costs.

B. S. G.

MISCELLANEOUS CIVIL

Before A. D. Koshal, J.

NAND RAM AND OTHERS,—*Petitioners.*

versus

THE STATE OF PUNJAB AND OTHERS,—*Respondents.*

Civil Writ No. 169 of 1965.

December 18, 1970.

East Punjab Holdings (Consolidation and Prevention of Fragmentation Act (L of 1948)—Section 2(bb)—Temple—Whether falls within the definition of "common purpose".

Held, that the provisions of clause (bb) of section 2 of East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 specifically extend the meaning of the phrase "common purpose" to public places of religious and charitable nature. Once a temple is shown to be a public place of religious nature, the extending clause beginning with the words "and includes the following purposes" at once makes the temple a "common purpose". It is not necessary to prove that the temple fulfills a need common to all the inhabitants of the village. (Para 3)

Petition under Articles 226/227 of the Constitution of India praying that a writ in the nature of certiorari mandamus or any other writ, order or direction be issued quashing the impugned portion of the scheme relating to the mandir.

M. M. PUNCHHI, ADVOCATE, for the petitioners.

P. N. AGGARWAL, ADVOCATE, for Respondent 5.

G. S. CHAWLA, ADVOCATE FOR ADVOCATE-GENERAL, PUNJAB.

JUDGMENT

This is a petition under Articles 226 and 227 of the Constitution of India for the issuance of a writ of certiorari quashing that part of the scheme of consolidation of holdings in village Jandwala Hanuwanta, Tehsil Fazilka, District Ferozepore (now Tehsil and District Bhatinda) which makes provision for a temple in a portion of the Panchayat land. Although numerous grounds were taken in the petition in support of the prayer of the petitioners, Mr. M. M. Punchhi, learned counsel for the petitioners, has restricted his argument before me to only one of them, namely, that a temple did not fall within the definition of the phrase "common purpose" as contained in clause (bb) of section 2 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation Act, 1943 (hereinafter referred to as the Act). The relevant part of that clause is reproduced below :

"2. In this Act, unless there is anything repugnant in the subject or context;—

(a) * * * *

(b) * * * *

(bb) 'common purpose' means any purpose in relation to any common need, convenience or benefit of the village and includes the following purposes :—

(i) * * * *

(ii) * * * *

(iii) * * * *

* * * *

public places of religious or charitable nature; and

(iv) * * * *"

It is urged by Mr. Punchhi that the temple being a religious place of worship for the Hindus only, its provision could not

be regarded as a "common purpose". He has also argued that even if it were otherwise, there was no need for the temple inasmuch as three temples already existed in the village.

In view of the provisions of clause (bb) quoted above, which specifically extend the meaning of the phrase "common purpose" to public places of religious and charitable nature, the contention of Mr. Punchhi must be turned down. Once the temple is shown to be a public place of religious nature which, it is conceded, it is, the extending clause beginning with the words "and includes the following purposes" at once makes the temple a "common purpose" and it need not further be shown that a temple would in the ordinary dictionary meaning of the phrase "common purpose" fall within its ambit or that it fulfilled a need common to all the inhabitants of the village.

In the above view of the matter, the petition fails and is dismissed with costs. Counsel's fee Rs. 100.

K. S. K.

INCOME TAX REFERENCE

Before D. K. Mahajan and Bal Raj Tuli, JJ.

THE COMMISSIONER OF INCOME-TAX, PUNJAB, JAMMU & KASHMIR
AND HIMACHAL PRADESH, PATIALA,—Applicant.

versus

HANS RAJ AND OTHERS,—Respondents.

Income Tax Reference No. 56 of 1965.

December 21, 1970.

Income-tax Act (XI of 1922)—Section 25(4)—Joint Hindu family disrupting in 1932—Members of the family constituting partnership—Partnership not dissolved but only reconstituted by adding members and redefining their shares—Members of such joint Hindu family—Whether entitled to the benefit of section 25(4) in the assessment year 1956-57.

Held, that the term succession as used in section 25(4) of Income-tax Act, implies that there is the end of an entity carrying on business and its place has been taken by new entity. There is no succession to the person