

ITEM NO.22

COURT NO.16

SECTION IV-B

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition for Special Leave to Appeal (C) No. 22350/2019

[Arising out of impugned judgment and order dated 22-05-2019 in RSA No. 3525/2018 passed by the High Court of Punjab & Haryana at Chandigarh]

BABA DARSHAN SINGH (DEAD)

THROUGH LEGAL HEIR BABA SANTOK SINGH

Petitioner(s)

VERSUS

1. GURUDWARA BEER SAHIB (BABA BUDHA JI)

2. Balwant Singh

3. Gurjinder Singh

4. Phulwinder Singh

Respondent(s)

IA No. 16581/2020 - APPLICATION FOR SUBSTITUTION, IA No. 16584/2020 - CONDONATION OF DELAY IN FILING SUBSTITUTION APPLN., IA No. 127223/2020 - EARLY HEARING APPLICATION, IA No. 32926/2020 - EXEMPTION FROM FILING O.T., IA No. 144048/2019 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES and IA No. 164132/2019 - VACATING STAY

Date: 18-02-2025 This matter was called on for hearing today.

CORAM

HON'BLE MR. JUSTICE AHSANUDDIN AMANULLAH

HON'BLE MR. JUSTICE PRASHANT KUMAR MISHRA

For Petitioner(s) Mr. Nidhesh Gupta, Sr. Adv.

Mr. Bikram Dwivedi, Adv.

Mr. Manu Bhardwaj, Adv.

Mr. G. Balaji, AOR

For Respondent(s) Mr. Sanjoy Ghose, Sr. Adv.

Mr. Ritesh Khatri, AOR

Mr. Simarjit Singh, Adv.

Ms. Deepika, Adv.

UPON hearing the counsel the Court made the following

O R D E R

The controversy in the present petition is whether the suit which was filed by the respondent no.1-plaintiff, was maintainable

for the reason that challenge was to the very fact as to whether the land in question was donated to the plaintiff or not.

2. Learned senior counsel for the petitioner submits that initially, the Managing Committee of the school, had filed a suit, claiming that besides the land in question, the remaining portion of the original donation in favour of the school, which was later on transferred in the name of Baba Kharak Singh in his individual capacity and had been settled with one Baba Darshan Singh, should be treated as school property and returned to it. The said suit was dismissed and though the appeal also failed, but liberty was given to file a fresh suit, by the competent person and the suit itself was allowed to be withdrawn, upon deposit of cost of Rs.2,000/- payable to the defendant. Pursuant thereto the suit filed by the respondent no.1-plaintiff was decreed in his favour which was challenged by the petitioner-defendant before the Appellate Court. The same was also dismissed and the High Court by its impugned judgment, has upheld the said two orders.

3. Learned senior counsel for the petitioner submitted that the fact that all the revenue authorities have found that the transactions are legal, the transfer made in favour of Baba Darshan Singh cannot be faulted in law, moreso in view of the fact that right from 1979, since the execution of the sale deed, they have been in possession, which is sufficient to disentitle the plaintiff from getting any relief.

4. It was further the contention that the initial donation also was in favour of Baba Kharak Singh for opening the school run by

Baba Kharak Singh as head of the Dera Baba Kharak Singh. But, later on, the Managing Committee by a resolution clarified that the donation was in favour of Baba Kharak Singh and the same was duly mutated.

5. Learned counsel submitted that even under law, the suit was otherwise barred by limitation, in view of the provision of Order XXIII Rule 1 and 2.

6. Learned counsel contended that the present land in question, is still open land managed by the institution originally started by Dera Baba Kharak Singh and now, run by the Chela i.e., the legal representative of Baba Darshan Singh and it is for charitable purposes.

7. It is submitted that though the manager of the plaintiff was the Ex-officio Secretary of the Managing Committee of the school and also the cashier but, that fact alone would not make the school property of the plaintiff.

8. It was contended that the transaction being of the year 1977, followed by possession and knowledge to the plaintiff and the suit being filed in the year 2006, itself would show that the cause of action cannot be maintained in the eyes of law and finally that in any view of the matter, the plaintiff has no right as it would be either the school in question or the Dera run by the original Baba Kharak Singh.

9. Learned counsel for the respondent no.1-plaintiff submits that the entire scheme of the original donation was that it was meant for a school of the Dera, which actually was a Gurudwara run by

Baba Kharak Singh and not in favour of Baba Kharak Singh.

10. It was submitted that even when the school was constructed years after the donation, the Secretary of the respondent no.1 was the Ex-officio Manager of the plaintiff and also the cashier and thus, it had all pervasive and full control of the property in question.

11. It was submitted that there may have been lapses on the part of the persons concerned, where such transgression in law could not be noticed and most importantly, through the so called mutation changes made in the year 1977 were not informed to the plaintiff for them to challenge the same at the relevant point of time, but that would not defeat the cause as the larger public interest and ultimately, the intention of the original donor has to be gone into.

12. Having considered the hotly contested rival contentions, we are not persuaded to interfere in the matter.

13. The fact remains that the original donation was for running the school and the entire land was meant for the school. It is a fact that the school has been opened and is running but the land in question is not being used for the benefit of the school and in fact, is not under its control. This being a fact, we cannot see any fault in the Courts below, holding in favour of the respondent that the land belongs to the school.

14. Accordingly, the petition stands dismissed. However, we clarify the position, once and for all that the school would be the owner of the lands in question i.e., the entire land as originally

donated in the year 1952.

15. Though we are not going into the issue as to who would be running the school, as it is the Managing Committee, constituted from time to time, in accordance with law but make it clear that the said Managing Committee can at more point of time, be a private Managing Committee and it has to have a public component including that of the concerned Gurudwara Prabandhak Committee. The entire property should be used only by the school and for the benefit of the school, without there being any alienation of the lands in question.

16. Pending application(s), if any, shall stand disposed of.

(GEETA JOSHI)
SENIOR PERSONAL ASSISTANT

(MAMTA RANI)
COURT MASTER (NSH)