

(2004) 10 SHI CK 0028

In the High Court Of Himachal Pradesh

Case No : O.M.P. No. 488 of 2002 in Civil Suit No. 53 of 1997

Mohindra Singh and Others

APPELLANT

Vs

Godan and Others

RESPONDENT

Date of Decision : 13-10-2004

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 1 Rule 10, 92

Citation : (2005) 1 ShimLC 87

Hon'ble Judges : M.R. Verma, J

Bench : Single Bench

Advocate : Archna Dutt and Baldev Singh, for the Appellant; Praneet Gupta, for the Defendants No. 7 to 13 and Chaman Negi, for Defendants No. 2 and 6, for the Respondent

Final Decision : Allowed

Judgement

M.R. Verma, J.—This application under Order 1 Rule 10 of the CPC (hereafter referred to as the Code) has been moved by the applicant for impleading it as a party to the suit and allow it to file Written Statement or the counter claim in the suit.

2. Brief facts giving rise to the filing of the present application are that the Plaintiffs have instituted a suit against the Defendants u/s 92 of the Code for appointment of new Trustees of Gurudwara Guru Granth Sahib, Bhuntar, and its properties and vest its management in the so appointed Trustees, directing the Defendants to deliver possession of the Trust properties in their possession to the new Trustees, directing Defendant No. 1 Uttam Singh (since deceased), represented by his Legal Representatives, to render the accounts of the properties of the said Gurudwara and for framing the scheme for proper management of the Gurudwara and the properties belonging to it. The suit was entertained by the Court after grant of requisite permission to the Plaintiffs vide order dated 26.9.1997.

3. Defendants No. 1(i) to 1(v) and 4 and 5 and Defendants No. 7 to 13 have filed Written Statements. The first set of the Defendants i.e. Defendants No. 1(i) to 1(v), 4 and 5 have disputed the claim of the Plaintiffs whereas Defendants No. 7 to 13 have admitted the claim as made out in the plaint.

4. During the pendency of the suit, the applicant has moved the aforesaid application for being impleaded as a party to the suit on the ground that the suit is collusive with a view to grab the properties of the Gurudwara whereas the applicant being the owner of the properties regarding which the dispute concerns, is a necessary party for the determination of the matter in dispute but has not been impleaded as a party to the suit.

5. The Plaintiffs opposed the application on the grounds that Tarsem Singh through whom the application has been filed has no concern with the properties in question though it has specifically been admitted that the properties belong to Gurudwara Guru Granth Sahib Bhuntar. It is claimed that the application has been moved with mala fide intention of grabbing the properties and the applicant is not a necessary party.

6. Defendants No. 7 to 13 in their reply claimed that the applicant is neither necessary nor a proper party to the suit and the application is mala fide and collusive.

7. The contesting Defendants also resisted the application by filing reply.

8. I have heard the learned Counsel for the parties and have also gone through the relevant material placed on record.

9. It is not in dispute that the dispute in the suit concerns the management of Gurudwara Shri Guru Granth Sahib Bhuntar and its properties.

10. It is a historical fact that the last living Guru Shri Guru Gobind Singh Ji declared that after him there would not be any living Guru of the Sikhs but the Guru Granth Sahib after him would be the vibrating Guru from which all followers of Sikhism would get their guidance and answer. It is because of this historical fact, faith and conviction therein that Shri Guru Granth Sahib is worshiped like a living Guru and when installed in a Gurudwara it becomes a sacred place of worship, therefore, the faith with which Shri Guru Granth Sahib is worshiped and the reverential value attached to it, it is a juristic person.

11. In Shriomani Gurudwara Prabandhak Committee, Amritsar Vs. Shri Som Nath Dass and Others, the Apex Court while dealing with the subject held as under:

30. In this background, and on over all considerations, we have no hesitation to hold that Guru Granth Sahib is a "Juristic Person." It cannot be equated with an "Idol" as idol worship is contrary to Sikhism. As a concept or a visionary for obeisance, the two religions are different. Yet, for its legal recognition as a juristic person, the followers of both the religions given them respectively the same reverential value. Thus the Guru Granth Sahib, it has all the qualities to be

recognised as such. Holding otherwise would mean giving too restrictive a meaning of a Juristic Person, and that would erase the very jurisprudence which gave birth to it.

12. Once it is found, as held hereinabove, that Shri Guru Granth Sahib is a juristic person, evidently the Gurudwara and the properties in suit are being held by a juristic person and such person decidedly is a necessary party to the suit in which the relief claimed is, amongst Ors. , appointment of trustees and evolving a scheme for the management of the Gurudwara and the properties of the Gurudwara Shri Guru Granth Sahib Bhuntar.

13. A perusal of the documents, copies whereof are annexed with the application reveals that the properties, in suit are shown in the ownership of Shri Guru Granth Sahib Wahtamam Maghi and after her Santokh Singh. By Rasam Dastar Bandi after the death of Santokh Singh Mahant Tarsem Singh, through whom the present application has been filed, has been nominated Manager of the properties in question.

14. In the aforesaid circumstances, the Gurudwara Shri Guru Granth Sahib being a juristic person and owner of the properties subject matter of the suit and thus being a necessary party deserves to be impleaded as a party Defendant in the case.

15. The above view is fully supportable in view of the ratio in C.R. Neelakantan and Anr. v. Saidapet Annadhana Samajam represented by its Secretary C. Bhaktavatsalam AIR 1967 Mad 303. In this case, a civil suit u/s 92 CPC was instituted against Secretary of a charitable trust registered under the Societies Registration Act. An application for amendment of the plaint by way of addition of the society as a party Defendant was filed. The Madras High Court, against this background, held as under:

11. I have already set out the material plaint allegations which necessitated the impleading of Bhaktavatsalam as a person who was in charge of, and meddled with, the affairs and funds of the Samajam. The main relief in the plaint being the preservation and continuance of the Samajam as a charitable body after framing a scheme, it cannot be said that the Samajam represented by the present Secretary who also is Bhaktavatsalam is not a necessary party to the suit for an effective adjudication of the controversy between the Plaintiffs and Bhaktavatsalam as representing the Samajam.

16. In view of the above factual and legal position, this application deserves to be allowed.

17. As a result, this application is allowed and the applicant Guru Granth Sahib is ordered to be impleaded as a Defendant through Tarsem Singh, as prayed for.