

(2020) 02 P&H CK 0194

In the Punjab And Haryana At Chandigarh

Case No : Civil Revision No. 3499 Of 2018 (O&M

S. Gurmit Singh And Others

APPELLANT

Vs

S. Buta Singh And Another

RESPONDENT

Date of Decision : 24-02-2020

Acts Referred:

Civil Procedure Code, 1908 — Section 151, Order 39, Rules 1, Order 39, Rules 2,
Order 40, Rules 1 Sikh Gurdwaras Act, 1925 — Section 142
Constitution Of India, 1950 — Article 227

Citation : (2020) 02 P&H CK 0194

Hon'ble Judges : Alka Sarin, J

Bench : Single Bench

Advocate : Ramandeep Singh, S.S. Bhinder, R.K. Sandhu

Final Decision : Dismissed

Judgement

Alka Sarin, J

The present revision has been filed under Article 227 of the Constitution of India against the order dated 10.05.2018 whereby application under Order

39, Rules 1 and 2 and Order 40, Rule 1 read with Section 151 of the Code of Civil Procedure, 1908 (hereinafter to be referred to as "CPC") has

been allowed and a Receiver has been appointed.

The brief facts relevant to the present case are that respondents herein filed a petition under Section 142 of the Sikh Gurdwaras Act, 1925,

(hereinafter referred to as "the Act") on the grounds that the petitioners herein were not managing the affairs of the Gurudwara Sahib as per

the Act, rules, Praband Scheme Maryada and also as per the directions of the Sri Akal Takhat Sahib and The Shiromani Gurdwara Parbandhak

Committee (for short, "SGPC"). It was also contended in the petition that

the petitioners herein were not celebrating important days, i.e.,

Amawas and Sangrad as per Nanakshahi Calender. Along with the said petition, the respondents herein also filed an application under Order 39, Rules

1 & 2 read with Section 151 CPC for restraining the petitioners from holding any office in the SGPC and in the notified Gurudwara Sahib. The

petitioners herein filed their reply to the petition under section 142 of the Act as well as to the stay application.

The Commission, after hearing the parties, vide a detailed order dated 10.05.2018, passed a restraint order against the petitioners herein restraining

them from working as President and Member, respectively, of the Gurudwara Sahib and further appointed S. Paramjit Singh, son of S. Chianchal

Singh as Receiver of the Gurudwara Damdama Sahib Dharm Saal Sahib, Tehsil Jagraon, District Ludhiana. Aggrieved by the said order, the present

revision petition has been filed.

I have heard the learned counsel for the parties.

The only contention raised by the learned counsel for the petitioners is that the order dated 10.05.2018 is against the law laid down by a Division

Bench of this Court in the case of Sucha Singh Langah vs. State of Punjab & Ors., 2004(1) R.C.R. (Civil) 24 5 wherein it has been held that under

section 142 of the Act, the Commission has no power to pass interim orders.

Per contra, learned counsel for the respondents has relied upon judgments of this court in - (i) Balbir Singh vs. Sikh Gurdwaras Judicial Commission,

Amritsar and others , 1967 AIR (Punjab) 272; (ii) Shiromani Gurdwaras Parbandhak Committee, Amritsar and another vs. Lachhman Singh Gill, Chief

Minister, Chief Minister, Punjab and others , 1970 AIR (Punjab) 40 (Full Bench of this Court); and (iii) Gurcharan Singh and others vs. Avtar Singh

and others, 2019(1) PLR 485, to contend that the Commission has the power to pass interim orders as well as to appoint a Receiver. It has further

been contended that the Full Bench judgment of this Court in Shiromani

Gurdwaras Parbandhak Committee, Amritsar and another (supra) was not brought to the notice of the Division Bench in the case of Sucha Singh

Langah (supra).

The Full Bench of this Court in the case of Shiromani Gurdwaras Parbandhak Committee, Amritsar and another (supra) held as under:-

â??Such powers can be exercised by the Judicial Commission not only in the final decision of the application, but, as held by my learned brother

Narula, J., in *Balbir Singh v. The Sikh Gurdwaras Judicial Commission, Amritsar*, ILR 1967(2) Punj. 494 C, civil Writ No. 2115 of 1966, decided on

November 25, 1966 the Judicial Commission has also authority to pass interim orders in the nature of grant of injunction or appointment of receiver if

such power is otherwise conferred on it. Section 141 of the Act does not prohibit the grant of such interim relief. Provisions of Order 39 Rule 1 and 2,

and Order 40, Rule 1 of the Civil Procedure Code are in no manner inconsistent with section 142 of the Act. On the contrary, those provisions are

not only ancillary to section 142 but are necessary to be invoked in suitable cases for effectively exercising the jurisdiction vested in the Judicial

Commission under that section. The Judicial Commission has Jurisdiction, in suitable cases, to issue temporary injunctions or to make interim

arrangements by appointment of a receiver on principles which are well established under the Civil Procedure Code.

This is the enumeration of the judicial functions of the Judicial Commission which cannot be divorced from the functioning and operation of the Board

under the statute.â??

The said judgment of the Full Bench has been followed by this Court in the case of *Gurcharan Singh and others* (supra). A perusal of the judgment

passed in the case of *Sucha Singh Langah* (supra) reveals that the judgment of the Full Bench in *Shiromani Gurdwaras Parbandhak Committee*,

Amritsar and another (supra) was not brought to the notice of the Court. Since the judgment of the Full Bench has not been considered by the Division

Bench, this Bench would be bound by the ratio of the larger Bench and, hence, this Court has no hesitation in holding that as per the law laid down by

the Full Bench in *Shiromani Gurdwaras Parbandhak Committee*, *Amritsar* and another (supra), the Commission would have the power to pass interim

orders as well as to appoint a Receiver.

No other point has been urged.

I do not find any merit in the present revision petition, which is, hence, dismissed.