

APPELLATE CIVIL.

Before Mr. Justice Tek Chand and Mr. Justice Bhide.
GURMUKH SINGH AND OTHERS (PLAINTIFFS)

Appellants

versus

SHROMANI GURDWARA COMMITTEE,
AMRITSAR, AND ANOTHER (DEFENDANTS) Respon-
dents.

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Feb. 29.

Civil Appeal No. 1534 of 1927.

*Sikh Gurdwaras (Punjab) Act, VIII of 1925, sections 2
(4) and 6—Office—meaning of—Compensation—application
for—competency of the persons making it.*

Under section 2 (4) of the Sikh Gurdwaras Act, "office" means any office by virtue of which the holder thereof participates in the management or performance of public worship in a *Gurdwara* or in the management or performance of any rituals or ceremonies observed therein.

An application for compensation under section 6 of the Act can only be made on behalf of a "past" or "present hereditary office holder" or the "presumptive successor" of such office-holder, as defined in the Act and if on the allegations made in the application presented to the Local Government or in the statements made before the Tribunal, the applicant does not claim this status, his application must be dismissed as incompetent.

First appeal from the order of the Sikh Gurdwaras Tribunal, Lahore, dated the 7th May, 1927, rejecting the application, etc.

BADRI DAS and DIN DIAL, for Appellants.

MAN SINGH, for Respondents.

The judgment of the Court was delivered by—

TEK CHAND J.—On the 5th of July, 1926, four persons, Pritam Singh, Bhag Singh, Sant Singh and Bali Singh, presented a petition for compensation under section 6 of the Sikh Gurdwara Act to the

Local Government through the Secretary, Transferred Departments. In the petition it was stated that a *Gurdwara* at Khadur Sahib known as Sri Darbar Sahib belonged to the descendants of Guru Angad Dev Ji, that it was "occupied and managed by the said descendants whose interest in the place as well as the income thereof was determined by right of inheritance under their personal law," that the income of the *Gurdwara* was divided among them according to ancestral shares, that these descendants used to appoint, from amongst themselves, representatives "to act on their behalf for the management of all that belonged to them jointly and for the realization and distribution of the joint income" and that the present representatives were the four applicants who had been recognised as such by the district authorities. They were accordingly "entitled" to present the petition on behalf of themselves and their principals, the descendants of Sri Guru Angad Dev, and they prayed that the "whole income of the *Gurdwara* or such part of it as might be deemed proper, be awarded to the descendants of Sri Guru Angad Dev at Khadur Sahib through the petitioners and that the Jagir income might be adjudicated to belong entirely to the petitioners and their principals".

In this petition the names of the "principals" were not disclosed nor was it stated how many they were and where they were living. The petition was duly forwarded to the Tribunal and on the 7th of April, 1927, Mr. Din Dayal, Advocate, appeared for the four applicants. He admitted that his clients, the four petitioners (whom alone he described as office holders), did not hold any power of attorney for the other descendants of Guru Sahib on whose behalf they professed to act nor did he himself hold

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any *vaktlatnama* from them. He expressed his inability to state their number even approximately and remarked that they might be one thousand. At the foot of his statement, there is a note recorded by the President that "Mr. Din Dayal asked repeatedly whether these one thousand people were office holders of the Gurdwara, refused to give a direct answer, repeating merely that they were owners of the Gurdwara".

On this the Tribunal passed an order, dated the 7th of April 1927, holding that the petition as presented must be confined to the claim of the four persons mentioned in it, and that it was incompetent on behalf of the other descendants of the second Guru, whose number or names or other description had not been disclosed either in the petition or before the Tribunal. They accordingly framed issues relating to the claim of the four applicants only.

A few days later, on the 19th of April, 1927, the appellants, who are 53 in number, presented an application to the Tribunal under Order XIV, rule 5, Civil Procedure Code, stating that they along with 70 other persons had filed a petition under section 6 through their four representatives aforesaid, but that the Tribunal had decided on the 7th of April that the petition on their behalf was incompetent. They alleged that they were owners and office holders of the *Gurdwara* and as such competent to apply. They accordingly claimed that the said order be discharged and they be given an opportunity to sign the original petition or the Tribunal might exercise its powers under section 15 of the Act and join them as parties to the application. This application was rejected by the Tribunal on the 7th of May, 1927.

The present appeal has been filed on behalf of these 53 persons attacking the orders passed on the 7th of April and 7th of May, 1927, respectively. Mr. Badri Das, who appeared on behalf of the appellants, addressed us on several points, but in our opinion the appeal must fail on the short ground that neither in the petition of the 5th of July, 1926, nor in the statement made by counsel on the 7th of April, 1927, was it claimed that the 53 appellants were "past or present hereditary office-holders" as defined in section 2 (4), which lays down that unless there is anything repugnant in the subject or context "office" means any office by virtue of which the holder thereof *participates in the management or performance of public worship in a Gurdwara or in the management or performance of any rituals or ceremonies observed therein*: and "office-holder" means any person who holds an office. An application for compensation under section 6 can only be made on behalf of a "past or present hereditary office-holder" or the "presumptive successor" of such office-holder. The appellants could, therefore, succeed only if this status was claimed for them, but that application—apart from the fact that it was not signed by the appellants or their duly authorised agent—was entirely silent on that point. It nowhere stated that the appellants participated in the management or performance of public worship in the *Gurdwara* at Khadur Sahib or of any rituals or ceremonies observed therein.

It has been argued that this application ought not to be strictly constructed, in view of the fact that the *Sikh Gurdwaras Act* was a novel piece of legislation and that there were no precedents to guide the claimants or their advisers. But we feel

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ourselves unable to accede to this contention in view of the fact that for nine months after the presentation of the petition the appellants took no steps whatsoever either to disclose their identity or to state that they held an "office" or were the "presumptive successor" of an "office-holder" in the *Gurdwara*. Indeed on the 7th of April, 1927, the learned counsel for the alleged agents of the appellants expressed his inability to define the status which the descendants of Guru Angad Dev, including the appellants, were supposed to have in the *Gurdwara* at Khadur Sahib, and he refused to give a direct answer to the question repeatedly put to him by the Tribunal whether these persons were "office-holders".

In these circumstances, we must hold that the Tribunal came to a correct conclusion in confining the application of the 5th July, 1926, to the four applicants named therein, and in rejecting the application subsequently made on behalf of the appellants. This being our view, it is not necessary to decide the other points that arise in the case.

The appeal fails and is dismissed with costs.

A. N. C.

Appeal dismissed.
