

APPELLATE CIVIL.

Before Coldstream and Jai Lal JJ.

GURMUKH SINGH—Appellant

1937

versus

Jan. 12.

DEVA SINGH AND OTHERS (OBJECTORS)

Respondents.

Civil First Appeal No. 1491 of 1935.

Sikh Gurdwaras Act (VIII of 1925), s. 16 (2), cl. (iii)
— *Proof that an institution is a Sikh Gurdwara — whether can be inferred from the purpose for which it has been used for a long time.*

Held, that the fact that there is another Sikh Gurdwara in the village (in which all the proprietors are Sikhs) does not show that the one in dispute is not a Sikh Gurdwara.

Held further, that there is no reason why the Tribunal should not infer the purpose for which the *dharamsala* was established, from the evidence showing the purpose for which it has been used for a long time.

First appeal from the decree of the Sikh Gurdwaras Tribunal, Lahore, dated 17th July, 1935, dismissing the petition.

MEHR CHAND MAHAJAN and BHAGAT SINGH, for Appellant.

J. G. SETHI and MANOHAR LAL MEHRA, for HARNAM SINGH, for Respondents.

COLDSTREAM J.—This is an appeal by Gurmukh COLDSTREAM J. Singh, manager of an institution known as the *dharamsala* (or *dera*) Bhai Vir Singh in the village of Patto Hira Singh in Moga *tahsil* of the Ferozepore District, against a judgment by the Sikh Gurdwaras Tribunal dismissing a petition presented by him under section 8 of the Sikh Gurdwaras Act, praying that the institution in dispute should not be declared to be a Sikh Gurdwara.

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The evidence in the case has been described in detail in the judgment of *Rai Bahadur Dwarka Parsad* in which the learned President and the third Member of the Tribunal concurred, and I do not propose to describe it again here. It is contended before us by the counsel for the appellant, that there are circumstances proved or admitted which are consistent with this institution not having been founded for public worship by Sikhs, but as a private charitable institution, for instance the fact that there is admittedly another institution in the village which is a Sikh Gurdwara. It is also contended that there is no direct evidence of the purpose for which the institution was founded and in this connection our attention has been drawn to a judgment of this Court in which it has been pointed out that in order to bring an institution within the definition of clause (iii), subsection (2) of section 16, it is necessary to prove not only that the institution has been used for public Sikh worship, but also, independently, that it was founded for such worship.

The fact that there is another institution in the village which is a Sikh Gurdwara does not help the appellant. The evidence is that the village proprietors are all Sikhs, and I can see no reason why they should not have two Sikh Gurdwaras in their village. It is proved that Vir Singh, the founder and first manager of the institution, described his occupation as a *granthi* in 1852. From this I think we may justly infer that at that time the Guru Granth Sahib was being read by him. From time to time the proprietors of the village have made presents of land to the institution. In three cases the gifts were described in the revenue records as having been made in favour of the Granth Sahib. The first of these gifts, it appears,

was made in the time of Vir Singh himself, although the gift was not recorded by mutation until after his death. As regards the necessity of an independent finding regarding the purpose for which the *dharam-sala* was established, I am unable to see why the Tribunal should not infer what this purpose was from evidence showing the purpose for which it has been used for a long time. Each case has to be decided on the whole evidence put forward by the parties in that particular case. In this case, I have no doubt that the finding of the Tribunal is correct and I would, therefore, dismiss the appeal with costs.

JAI LAL J.—I agree.

P. S.

Appeal dismissed.

LETTERS PATENT APPEAL.

Before Addison and Din Mohammad JJ.

ACHHRU MAL (DECREE-HOLDER) Appellant,

versus

BALWANT SINGH AND ANOTHER (JUDGMENT-DEBTORS) Respondents.

Letters Patent Appeal No. 122 of 1936.

Civil Procedure Code, Act V of 1908, s. 60 (1), proviso cl. (g) — Jagir — realised in the shape of an assignment of land revenue — whether a political pension.

The ancestors of the present *jagirdar* exercised sovereign powers in the locality in which they resided and were granted the right to realise the land revenue in lieu of the relinquishment of their sovereign rights, with a view to retain their alliance, or good will, or to claim their assistance when needed.

Held, that the *jagir* thus realised by the present *jagirdar* is a political pension within the meaning of clause (g) of the *proviso* to sub-section (1) of section 60 of the Code of Civil Procedure, and thus exempt from attachment in execution of a decree of a Civil Court.

Case law, discussed.

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