

FULL BENCH

Before S. S. Sandhawalika, C.J., P. C. Jain, B. S. Dhillon, Gurnam Singh and Harbans Lal, JJ.

GURDWARA SAHIB PADSHAHI DASWIN TITTARSAR—*Plaintiff-Appellant.*

versus

MAHANT KESAR SINGH—*Defendant-Respondent.*

Regular First Appeal No. 165 of 1966

January 19, 1979.

Sikh Gurdwaras Act (VIII of 1925)—Sections 2(12), 28 and 87(1) (a) and (b)—‘Gurdwara’—Meaning of—Scope and ambit of section 87(1) (a) and (b)—Income from properties not in possession of the Committee of Management—Whether can be taken into account—Annual income from property relating to a Gurdwara exceeding Rs. 3,000 but not received by the Committee—Such Committee—Whether to be elected or nominated under section 87(1).

Held, (per majority S. S. Sandhawalika C.J., P. C. Jain, B. S. Dhillon and Gurnam Singh, JJ.) that the word ‘Gurdwara’ would mean comprising ‘purpose’ or ‘ideals’ which owns all the property of the Gurdwara and not in the mundane sense implying the mass of earth and the brick and mortar thereon, which is the physical place of worship in which ‘Guru Granth Sahib’ may be installed.

(Para 11).

Held, (per majority S. S. Sandhawalika, C.J., P. C. Jain, B. S. Dhillon and Gurnam Singh, JJ., Harbans Lal J. contra) that the moment provisions of Part III of the Sikh Gurdwaras Act, 1925 are made applicable to a Sikh Gurdwara the stage would arrive for the constitution of the Committee keeping in view the provisions of sections 86 and 87(1) (a) and (b) of the Act. It is at that stage that the Board has to see whether a Committee should be nominated or elected one and for coming to that conclusion the Board has to take into consideration the gross annual income of the Gurdwara or Gurdwaras. The income which actually is to fall in the hands of the Committee which has to administer the Gurdwara in accordance with the provisions of Part III can be the only basis for seeing whether the income of the Gurdwara exceeds three thousand rupees annually or not. The words ‘gross income’ or ‘annual monetary, income, would mean “coming in, arrival etc.” Anything which has not yet come in or arrived cannot be termed as income. It may be termed as speculated income or an estimated income. Income may also be defined as something derived from profit, labour, skill, ingenuity or sound judgment or from the two or more of them in

combination. A contingent right to receive money cannot be described as 'income'. Income would also mean coming in from property and is not to be measured by an expert's opinion regarding an amount which property ought to bring as a rent. Income from the property which has not passed hands along with the institution and regarding which the suit for possession or other litigation has yet to be fought cannot be taken into consideration for the purposes of section 87(1) (a) and (b) of the Act for the simple reason that in that case the income which has not actually accrued will only be an estimated income which can be expected to have accrued or may accrue in future. Such an estimate is bound to be different in different situations. Moreover, the same property if managed efficiently may bring more income than if the same is not managed so efficiently and in that case it would merely be a guess work if one has to assess income from such a property which is not in the hands of the institution. The said estimate cannot, indeed, be termed as income in future sense of the word. If the income has to be calculated from all the property to which the Gurdwara may have a claim that will frustrate the very purpose of the Act. The legislature never intended that the basis on which the Board has to form its opinion should be so flickering that different consequences may follow in different situations. Thus, any property which is not immediately available to the Committee for management pertaining to a Gurdwara cannot be held to be yielding any income to the Gurdwara especially when the same is out of the hands of the management which is to manage the said property. The intention of the legislature in enacting the provisions of section 87(1) (a) and (b) of the Act is that the Gurdwaras which have the annual income of more than three thousand rupees should be managed by elected committees. But, at the same time it cannot be ignored that the Committees have to be constituted for managing Gurdwaras and the properties attached to the Gurdwaras. In a case where there is no property which may come into the hands of the Committee when nominated and the Committee has yet to get the property in possession after a prolonged litigation which may bring in some income at some later date, it would not be in keeping with the spirit of the Act to get the detailed process of election initiated when there is no income to the Gurdwara which the Committee is supposed to manage. As and when income of the Committee exceeds a sum of Rs. 3,000 annually the said Committee, in due course shall have to be an elected one. But election from its very inception when there is absolutely no income and there is only likelihood of the income accruing at a subsequent date is not in keeping with the spirit of the Act.

(Paras 11, 13 and 17).

Held, (per Harbans Lal, J. contra) that undoubtedly the power of constituting a Committee of Management whether by nomination

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or election is vested in the Board or the Government on the recommendation of the Board. Before a Committee of Management is constituted, the properties of the institution will not be under the control and management of the board and as such maintenance of accounts and the income of the properties will be exclusively under the control of any person incharge of the institution or the property but this fact alone cannot be pressed into service to side track or to ignore the clear and express mandate of the legislature as embodied in sub-clauses (a) and (b) of section 87(1) of the Sikh Gurdwaras Act, 1925. It is for the Board to employ agencies under its control to make an estimate of the income of the properties of any Gurdwara concerned and *bona fide* arrive at a result whether its annual income was in excess of Rs. 3,000 or not. Even if the income of a particular institution is being misused and mis-appropriated by any person incharge of its management, assessment of income of the same even if it has to be approximate is not an impossible act. Income of the properties of the Gurdwaras as visualised in sub-clauses (a) and (b) of section 87(1) has to accrue to the institution irrespective of mode and method of its management. It cannot be said that so long the Committee of Management as provided under the Act is not constituted and the same does not get into possession of the properties of a particular Gurdwara, the properties and income of such a Gurdwara cannot be deemed to accrue to the institution. Whether the income of a particular Gurdwara or the property goes into the pocket of A or B does not make any change in the situation. In law, it must be held to accrue to the institution concerned. The only difference after the constitution of the Committee is that the income is at the disposal of the Committee for disbursement and utilisation which was at the disposal of some other person or body of persons prior to the constitution of the Committee. In order to implement the intention of the legislature, both clauses (a) and (b) of section 87(1) must be made to operate to the fullest extent. This object can be achieved only if it is mandatory on the Board to come to a definite finding regarding the income of the properties of a particular Gurdwara before it undertakes to constitute a Committee of management for the first time. Keeping in view the gross annual income of the institutions, the Committee of Management to be set up will have to be either a nominated body or an elected body according to either of the clauses (a) and (b), of section 87(1). The intention of the legislature continues to be that the management of the Gurdwaras in order to inspire confidence of the worshippers must be in the hands of the elected bodies and not nominated ones. While interpreting scope of sub-clauses (a) and (b) of section 87(1) it is the duty of the court to adopt such interpretation which will further and advance the purpose and scheme of the Act and not defeat the same. To say that in view of some real or imaginary

difficulties which can be experienced in assessing the income of the institution concerned, sub-clauses (a) and (b) of section 87(1) should be construed in such a manner that sub-clause (b) which provides for the constitution of an elected body of management is rendered nugatory or non-existent, will be contrary to the well settled and established principles of interpretation of statutes. It cannot, therefore, be said that the Committee of Management is required to be an elected body as envisaged under sub-clause (b) to sub-section (1) of section 87 only in those cases where the income of the property relating to such Gurdwara or Gurdwaras annually exceeding Rs. 3,000 actually accrued to such a Committee of management and till the time the Committee began getting the income of such an institution, the same was to be a nominated body as envisaged in sub-clause (a) to sub-section (1) of section 87.

(Paras 31, 39, 41 and 42)

Case referred by Hon'ble Mr. Justice S. P. Goyal on March 7, 1977 to a larger Bench for decision of an important question of law involved in the case. The Division Bench consisting of Hon'ble Mr. Justice Gurnam Singh and Hon'ble Mr. Justice Harbans Lal again referred the case to a Full Bench on July 19, 1977. The Full Bench consisting of Hon'ble the Chief Justice Mr. S. S. Sandhawalia, Hon'ble Mr. Justice P. C. Jain, Hon'ble Mr. Justice B. S. Dhillon, Hon'ble Mr. Justice Gurnam Singh, and Hon'ble Mr. Justice Harbans Lal after deciding the question of law involved in the case returned the case to Division Bench for disposal on merits on 19th January, 1979.

Regular Fist Appeal from the order of the Court of Shri Jasmer Singh, District Judge, Bhatinda, dated 19th January, 1966 dismissing the suit and leaving the parties to bear their own costs.

Mr. Narinder Singh, Advocate, for the appellant.

D. S. Chahal, Advocate, for the respondent.

B. S. Dhillon, J.

(1) The question for consideration has been rightly posed by my learned brother Harbans Lal, J. and it is not necessary for me to re-state the same. The facts giving rise to this reference have also been vividly stated in the separate judgment prepared by my learned brother Harbans Lal, J. and there is no necessity to make mention of the same in my judgment.

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With a view to correctly appreciate the scope and ambit of section 87(1) (a) and (b) of the Sikh Gurdwaras Act, 1925 (hereinafter called the Act), the scheme of the Act has to be kept in view. The object of the Act was to provide for the better administration of Sikh Gurdwaras and for enquiries into matter and settlement of disputes connected therewith. Section 3 of the Act provides that any person specified therein could forward to the State Government, within the limitation prescribed, a list of all rights, titles or interests in the immovable properties situated in Punjab inclusive of the Gurdwara etc. which he claims to belong, within his knowledge, to the Gurdwara specified in Schedule I attached to the Act. Where no such list concerning any Gurdwara mentioned in schedule I was forwarded, such Gurdwara was to be excluded from Schedule I. In view of the provisions of section 5 of the Act. Any person claiming a right, title or interest in any property included in the consolidated list as submitted under section 3 of the Act has the right to make claim about the same. Under section 7 of the Act fifty or more Sikh worshippers of a Gurdwara could file a petition with the State Government praying for declaring the Gurdwara mentioned therein to be a Sikh Gurdwara. Under section 8 of the Act any hereditary officeholder or any twenty or more worshippers of the Gurdwara could make a petition claiming that the Gurdwara in question is not a Sikh Gurdwara. Under section 10 of the Act any person may lay claim to a right, title or interest in any property claimed to be that of the Gurdwara under section 8 of the Act.

(2) Under section 12 of the Act, Sikh Gurdwaras Tribunal has been constituted to decide all the disputes which may arise under sections 5, 6, 8, 10 and 11 of the Act.

(3) Part II, Chapter IV of the Act, which contains section 38, the only section enacted under this part, makes a provision of the application of the provisions of Part III to Gurdwaras found to be Sikh Gurdwaras by the Courts other than a Tribunal under the provisions of the Act. It empowers the Civil Court to decide regarding the prayer for any of the reliefs specified in section 92 of the Code of Civil Procedure and for making applicable the provisions of Part III of the Act to a Gurdwara which was not either declared as a Sikh Gurdwara under section 3 or under section 8 of the Sikh Gurdwaras Act.

(4) Part III of the Act which starts from Chapter V, deals with the control of the Sikh Gurdwaras. Section 10 of the Act provides that for the purposes of this Act there shall be constituted a Board and for every Notified Sikh Gurdwara a committee of management and there shall also be constituted from time to time a Judicial Commission in the manner hereinafter provided.

(5) After the dispute regarding the claims to the property under section 5 or section 10 of the Act has been adjudicated upon by the Sikh Gurdwara Tribunal, the Tribunal has the power under section 25-A of the Act to put the party in possession of the property in whose favour a finding in the claims petition filed under section 5 or 10 of the Act has been returned. Under section 28 of the Act, suit for possession on behalf of the Gurdwara can be brought by the Committee after a notification is published under sub-section (3) of section 5 or of sub-section (3) of section 10 of the Act.

(6) From what has been stated above, the machinery provided in the Act postulates three ways by which Sikh Gurdwaras can be brought within the ambit of the control as mentioned in Part III of the Act. Firstly, a number of Gurdwaras have been included in the schedule attached to the Act as provided under section 3 of the Act. Secondly, Gurdwaras declared to be as such on the basis of the claim petition filed under section 7 of the Act and thirdly, Gurdwaras regarding which the adjudication has to be made under section 38 of the Act. The disputes regarding the property raised under section 5 and 10 of the Act have also to be adjudicated upon by the Sikh Gurdwaras Tribunal. After the dispute regarding property had been adjudicated upon, the Tribunal has power to put in possession the party entitled to the property under section 25-A(1) of the Act and the Committee of the notified Sikh Gurdwara can approach the Civil Court for getting the possession of the property declared to be that of Sikh Gurdwara under section 28 of the Act.

(7) It may be useful to clarify here that word 'Gurdwara' used in section 87 of the Act has got a meaning given to it under the Act i.e. the notified Sikh Gurdwara. Notified Sikh Gurdwara has been defined in sub-clause (12) of section 2 of the Act in the following words:—

“Notified Sikh Gurdwara” means any Gurdwara declared by notification by the State Government under the provisions of this Act to be a Sikh Gurdwara”.

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(8) A Full Bench decision in *Mahant Lachman Dass Chela Mahant Ishar Dass versus The State of Punjab* (1), further clarified that the word "Gurdwara" used in some of the provisions of the Act has reference to the "institution" comprising the "purpose" or "ideal" which owns all the property of the Gurdwara and not in the mundane sense implying the mass of earth, and the brick and mortar thereon, which is the physical place of worship in which Guru Granth Sahib may be installed.

(9) From what has been stated above, it would be seen that notified Sikh Gurdwara as an institution is different from the building of the Gurdwara which is in the form of brick and mortar. A particular claimant may claim the building of the Gurdwara itself as his property or as property of some other institution in the claim petition under section 5 or 10 of the Act.

(10) After an institution is declared as notified Sikh Gurdwara, provisions of the Act contained in Part III of the Act applies to the Gurdwara with effect from the date of the publication of the notification. This is so clear from the provisions of sec. 3, sub-section (4), sec. 9(2) and sub-section (2) of section 38 of the Act. After the institution in question is declared to be a notified Sikh Gurdwara it may happen that in a given case that whole of the property attached to the said institution may pass hands to the management to be constituted under the provisions of Part III of the Act. In another situation no part of the property attached to the institution may pass hands and the person in possession of the property may continue to be in possession claiming interest in the property or even if their claims have been negated by the Tribunal still they continue to be in possession as trespassers. In third exigency part of the property may be available immediately when the institution is declared as notified Sikh Gurdwara to be managed in accordance with the provisions of Part III and part of the property may still remain with the other claimants or trespassers. As is clear from the provisions of section 85 of the Act, the Board itself has been declared to be the Committee of management for the Gurdwaras mentioned in the said section. For every notified Sikh Gurdwara other than a Gurdwara specified in section 85 of the Act a Committee shall be constituted after it has been declared to be a Sikh Gurdwara under

(1) 1968 I.L.R. (Pb. & Hary) 499,

the provisions of this Act or after the provisions of Part III have been made applicable to it under the provisions of section 38 of the Act. It is at that stage that the provisions of section 87 of the Act would come into play. *It has not to be lost sight of that the provisions of part III of the Act would become applicable to the notified Sikh Gurdwara much before the disputes raised under section 5 or 10 of the Act regarding the property attached to the Gurdwara are adjudicated upon by the Tribunal.* As I have already pointed out in case where along with the declaration of the notified Sikh Gurdwara the property belonged to the Gurdwara also passes hands in that case the institution along with the property shall have to be managed and it will be bounden duty of the Board or the Committee as the case may be to administer in accordance with the provisions of Part III. After the provisions of Part III are made applicable a stage is reached when the Board has to consider the question of constituting a Committee in accordance with the provisions of section 87(1) (a) and (b) of the Act.

(11) For interpreting the provisions of section 87(1) (a) and (b) of the Act the crucial words which require interpretation are "the Committee of the Gurdwara or Gurdwaras, whose gross annual income does not exceed three thousand rupees", and the words "Committee or Gurdwara or Gurdwaras, whose annual monetary income exceeds three thousand rupees." Word "Gurdwara" as I have already elaborated would mean comprising "purpose" or "ideals" which owns all the property of the Gurdwara and not in the mundane sense implying the mass of earth and the brick and mortar thereon, which is the physical place of worship in which Guru Granth Sahib may be installed. As regards the words "gross income" or "annual monetary income" the same would mean "coming in, arrival etc." as given in Oxford Dictionary. Anything which has not yet come in or arrived cannot be termed as income. It may be termed as speculated income or estimated income. Income may also be defined as something derived from profit, labour, skill, ingenuity or sound judgment or from two or more of them in combination. A contingent right to receive money cannot be described as "income". The income would also mean money coming in from property and is not to be measured by an Expert's opinion regarding an amount which property ought to bring as a rent. It would thus be seen that the moment the provisions of Part III of the Act are made applicable to Sikh Gurdwara the stage is arrived for the constitution of the Committee keeping in

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view the provisions of section 86 and 87 (1) (a) & (b) of the Act. It is at that stage that Board has to see whether a Committee should be nominated or elected one. For coming to that conclusion the Board has to take into consideration the gross annual income of the Gurdwara or Gurdwaras. The income which actually is to fall in the hands of the Committee who has to administer the Gurdwara in accordance with the provisions of Part III can be the only basis for seeing whether the income of the Gurdwara exceeds three thousands rupees annually or not. If the income from the property which has not passed hands along with the institution and regarding which the suit for possession or other litigation has yet to be fought cannot be taken into consideration for the purposes of section 87 (1) (a) and (b) of the Act for the simple reason that in that case the income which has not actually accrued will only be an estimated income which can be expected to have accrued or may accrue in future. Such an estimate is bound to be different in different situation. The claim of the Gurdwara for receiving the rent of a particular property which is not in possession of the Gurdwara may be defeated in the Court of law. Moreover, the same property being managed efficiently may bring more income than if the same is not managed so efficiently. In that case, it would be merely a guess work if one has to assess income from such a property which is not in the hands of the institution. The said estimate cannot be termed as income in true sense of the word. In view of the provisions of section 88 of the Act, the Committees have to be constituted as soon as may be after the constitution of the Board and the same has not to be constituted before the provisions of this Act in Part III have been made applicable to the institution. If the contention of the learned counsel for the respondent is accepted that the income has to be calculated from all the property to which the Gurdwara may have a claim that will frustrate the very purpose of the Act. Firstly, this conclusion is not warranted from the wording of the provisions of section 87 (1) (a) and (b) of the Act in which the word "income" has been used in its ordinary sense. As in that case the estimate will not be that of the income of the Gurdwara but will be regarding the estimated income of the Gurdwaras which may or may not accrue at a subsequent period. Secondly, the relevant point of time for applying the determining test of provisions of section 87 (1) (a) and (b) of the Act will be when the provisions of Part III are made applicable and the Committee of the Gurdwara shall have to be

constituted on the basis of speculated income if the interpretation as put forth by the learned counsel for the respondent is accepted at that juncture even though the same may not be the income. Thirdly, as observed, the estimate of the income may differ as property efficiently managed may bring larger income. The legislature never intended that the basis on which the Board has to form its opinion should be so flickering that different consequences may follow in different situation. An interpretation, which results in anomalies, is to be avoided. As a consequence, it cannot be successfully argued that if the interpretation as put forth in *Jallaur Singh's case* (supra) is taken to be correct, the provisions of section 87(1) (a) & (b) of the Act, will become redundant.

(12) Moreover, it is not correct to presume that the property pertaining to all notified Sikh Gurdwaras was yet to be recovered from third persons by way of suits for possession. Judicial notice can be taken that the property concerning many notified Sikh Gurdwaras was voluntarily left possession by the persons in possession and the same passed into the hands of the Board and the Committee immediately when the provisions of Part III of the Act became applicable. Reference in this connection may be made to the Book captioned "Struggle for Reform in Sikh Shrines" published by the Sikh Ithas Research Board which gives the authentic account of the glimpses of the historical background relating to administration of the Sikh Gurdwaras, written by Professor Ruchi Ram Sahni, a well-known historian of late 19th and early 20th century. At pages 252 and 253 of the said book Professor Sahni writes as follows:—

'In the prevailing condition of uncertainty and general uneasiness, the newly-formed society for the management of the Gurdwaras, which had by this time provided itself with a constitution and a somewhat pompous name, had now begun to take into its own possession and control such of the Gurdwaras as they could without much difficulty. In the circumstances of the time it is not surprising that while the Shiromani Gurdwara Parbandhak Committee (written briefly S.G.P.C.) or the more religious minded of the more prudent Mahants realising that their personal interest or the interest of the shrines in their charge lay in their seeking the protection of the Committee that has been formed specially for the purpose of managing and

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maintaining the Gurdwaras on lines consistent with the teachings of the Gurus and the wishes of the community, had voluntarily placed the Gurdwaras under the control of S.G.P.C., some other Mahants, on the other hand, believed that their own interests could be better served by continuing to manage the Gurdwaras on the lines on which they had hitherto been doing, namely, with the support and guidance of the local officials. It is not improbable that in some cases, at least some Akalis may have actually taken forcible possession of Gurdwaras * * *

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Some of these places after proper inquiry were handed back to their rightful owners under the instructions of the S. G. P. C. A few of these places were not Gurdwaras at all, but simply Dharamsalas built by religious-minded Hindus who had faith in the teachings of the Gurus and where the Granth Sahib was read regularly for the spiritual benefit of all the men and women living in the neighbourhood."

(13) It would thus be seen that it is not correct to contend that in all cases visualised under the Act the Gurdwaras and the property attached to them could not be available to be put under the supervision and control of the Board or the Committee as the case may be. There are numerous cases where the Mahants or other office-holders voluntarily relinquished the properties attached to the Gurdwaras to be managed by the authorities under the provisions of Part III of the Act. There may be stray cases where after the claims regarding the properties had been adjudicated by the Tribunal that the Committee has to seek the aid of the provisions of section 28 of the Act to get the possession of the same. From what has been stated above, it is, therefore, obvious that there are cases where the income of the Gurdwara may be beyond

three thousand rupees annually and in that case a Committee shall have to be elected in accordance with the provisions of the Act. Any property which is not immediately available to the Committee for management pertaining to a Gurdwara cannot be held to be yielding any income to the Gurdwara, especially when the same is out of the hands of the management which has to manage the said property. As already observed the income from such a property may or may not be expected to be arrived at some subsequent date but that cannot form the basis on which the Board may come to the conclusion whether the Committee should be nominated one or elected one.

(14) It also cannot be disputed that it is imperative that the Court must interpret the plain language of the Statute giving words there natural and normal meaning and anxiety to phathom real intention of the legislature should not import words into section or provisions. If the provisions of section 87(1) (a) and (b) of the Act are construed in the manner so as to include the prospective or estimated income in that case it may not be possible unless the words estimated or prospective after the words "gross annual income" are added in before the sub-clauses (a) and (b) of section 87(1) of the Act and the provisions in that case would be made to read as under :—

"87(1) * * * * *

* * * * *

(a) * * whose gross annual *estimated or prospective* income accruing to or coming into the hands of the Committee does not exceed Rs. 3,000|-----"

(b) whose annual monetary *estimated or prospective* income accruing to or coming into the hands of the Committee exceeds Rs. 3,000|-----"

(15) It would thus be seen that, keeping in view the plain language of the provisions of section 87 (1) (a) and (b) of the Act, it is not possible for us to add the above mentioned words when the said provision can be construed in its plain language.

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(16) As already observed, it is idle to contend that in no case there will be elected Committee. The property attached to most of the Gurdwaras did pass hands along with the institution and, therefore, such a conclusion is not possible.

(17) It is no doubt true that the intention of the legislature in enacting the provision of section 87 (1) (a) and (b) of the Act, is that the Gurdwaras which have the annual income of more than Rs. 3,000/- should be managed by elected Committees. But at the same time it cannot be ignored that the Committees have to be constituted for managing the Gurdwaras and the properties attached to the Gurdwaras. In a case where there is no property which may come into the hands of the Committee when nominated and the Committee has yet to get the property in possession after a prolonged litigation which may bring some income at some later date, it would not be inkeeping with the spirit of the Act to get the detailed process of election initiated even when there is not a single Paisa of income to the Gurdwara which the Committee is supposed to manage. As and when the income of the Committee exceeds a sum of Rs. 3,000 annually, the said committee, in due course, shall have to be elected one. But the election from its very inception, when there is absolutely no income but there is likelihood of the income accruing at a subsequent date is not inkeeping with the spirit of the provisions of the Act.

(18) It cannot also be disputed that while interpreting the scope of clauses (a) and (b) of section 87 (1) of the Act it is the duty of the Court to adopt to such interpretation which will further advance the purpose and the scheme of the Act and not defeat the same. This can only be done if the interpretation which has been put forth by me is given to the said provisions because the main purpose for getting an elected body into a Committee of management of the Gurdwara is that where the income exceeds Rs. 3,000/- annually the democratic committee shall manage the same but in case where the annual income is less than Rs. 3,000/-, it would be futile to enter into a long drawn process of election which also entails expenditure with which ultimately the Committee is to be burdened.

(19) From what has been discussed above, in my considered view, the view taken in *Jallaur Singh's case* wherein it was observed

that section 87 (1) (a) of the Act visualises an income accruing or coming into the hands of the institution as such, has to be taken into consideration while interpreting the provisions of section 87 (1) (a) and (b) of the Act is correct!

(20) In view of what has been stated above, with apologies to my learned brother Harbans Lal, J., I have not been able to persuade myself to agree with him regarding the interpretation of section 87 (1) (a) and (b) of the Act, as in my considered opinion that interpretation will not only violate the plain language used by the legislature but will not further and advance the scope and the object of the Act.

(21) The question of law having been settled, the appeal may now be listed before the Division Bench for disposal on merits.

Harbans Lal, J.

(22) The sole question which calls for consideration by the Full Bench in the present appeal is the scope and ambit of section 87 (1) (a) and (b) of the Sikh Gurdwaras Act, 1925 (hereinafter called the Act), which is reproduced below:—

“87 (1) Every Committee shall consist of five members out of which one at least shall be a person belonging to the scheduled castes and shall be constituted as follows:—

- (a) The Board shall nominate the members, with their written consent, of the committee of the Gurdwara or Gurdwaras, whose gross annual income does not exceed three thousand rupees, who shall be residents of the district in which the Gurdwara or one of the Gurdwaras to be managed by the Committee is situated:

Provided that the Board may, if it so decides, instead of nominating the members, manage the affairs of any such Gurdwara itself in accordance with the provisions of the Act.

- (b) The Committee of Gurdwara or Gurdwaras, whose annual monetary income exceeds three thousand rupees

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shall consist of four elected members and one member nominated by the Board who shall be resident of the district in which Gurdwara or one of the Gurdwaras to be managed by the Committee is situated.

If in the election, the required number of members is not elected, the Board may nominate such number of persons as have not been elected, so as to complete the Committee for such a Gurdwara or Gurdwaras, provided that the person or persons so nominated shall be the resident or residents of the district in which the said Gurdwara or Gurdwaras are situated."

(23) Before embarking upon the interpretation of this provision, the facts and the background of the case may, briefly, be narrated. A suit under section 28 of the Act, for the possession of the Gurdwara Sahib Padshahi Daswin (hereinafter called the Gurdwara) and agricultural land specified in the plaint, was filed by a Committee of management on behalf of the Gurdwara. According to the averments in the plaint, the Gurdwara was a notified Sikh Gurdwara under the Act and a Committee of management for the same, had been nominated and notified in the Government Gazette dated April 12, 1963. The said Committee by a resolution dated May 6, 1963, authorised its President and the Vice-President, Bharpur Singh and Bhura Singh, respectively, to institute the suit. This suit was contested by Mahant Kesar Singh, defendant, (now respondent) and a number of contentions regarding the limitation, valuation for the purpose of Court fee and the jurisdiction etc. were raised, which are not relevant for the purpose of the present controversy. The relevant contention was that the plaintiff Committee was not entitled to sue. This formed the basis of issue No. 5. On this issue, evidence was led by both the sides. The District Judge, Bhatinda, who tried the suit, arrived at the conclusion that the Committee of management through which the suit had been filed, had been constituted not only for the Gurdwara, but for two Gurdwaras, namely, the Gurdwara, in question, and the Gurdwara Naumi Padshahi Maisar Khana and that the annual gross income of the two Gurdwaras having the same Committee of management was far in excess of Rs. 3,000|-. Consequently, it was held that the constitution of the Committee was invalid inasmuch as the same had been nominated under sub-clause (a) to sub-section (1) to section

87 of the Act, whereas it ought to have been elected-cum-nominated as provided under sub-clause (b) to sub-section (1) to section 87. In view of this finding, it was held that the plaintiff Committee had no *locus standi* to file the suit and the same was dismissed. This was challenged through appeal,—*vide* Regular First Appeal No. 165 of 1966. Goyal, J.,—*vide* his order dated March 7, 1977, agreed with the finding and the interpretation of the relevant provisions of the Act by the learned District Judge and was of the opinion that the decision in (1) *Jalaur Singh and another v. The Shiromani Gurdwara Prabandhak Committee, Amritsar*, interpreting section 87(1) (a) of the Act to the following effect, required reconsideration by a larger Bench:

“This apart, it is patent that section 87(1) (a) visualises an income accruing to or coming into the hands of the institution as such. It was appellants’ own case that in fact they were in possession of and entitled as a matter of right to the properties attached to the Gurdwara and obviously they had never tendered any income accruing from the said property to the Institution or the Managing Committee thereof. Consequently, it is patent that on the pleadings of the parties, the Gurdwara as such and its Managing Committee were receiving no income whatsoever from the properties for the possession whereof they had instituted the present suit. This fact finds further support from the virtually unchallenged averments in the resolution Exhibit P. 3, which mentioned that Mahants were in possession of the properties attached to the Gurdwaras mentioned in the list and the Shrimani Prabandhak Committee was not receiving any income from them. It is thus evident that in the particular case the income to the Gurdwara being virtually non-existent, the respondent Committee was perfectly entitled to constitute itself as the Managing Committee thereof under section 87(1) of the Act.”

(24) The appeal was then referred to the Division Bench comprising of Gurnam Singh, J., and myself. After hearing the learned counsel on both sides,—*vide* our order dated July 19, 1977, we were of the view that the matter, in controversy, was important enough

(2) RFA 374 of 1965 decided on 29.10.1975.

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to be considered by a still larger Bench. It was in these circumstances that the case has been referred to the Full Bench.

(25) At this stage, a brief persual of the scheme of the Act so far as it is relevant for the purpose of the question involved appears to be necessary. Under section 3(2) of the Act, on the receipt of a list of rights, titles or interests in immovable property, situated in Punjab, inclusive of the Gurdwara as specified in Schedule I to the Act, under sub-section (1), by the State, a notification is published to the effect that the Sikh Gurdwara to which these properties relate is a notified Sikh Gurdwara. Such a notification is conclusive relating to the Gurdwara being a Sikh Gurdwara. Under section 5(1), any person is entitled to claim the properties in the said notification as his own except the right, title or interest in the Gurdwara itself, within a specified period. In case no such claim was made, the notification published under section 5(3) by the State Government is conclusive to the effect that any such claim to the properties of the particular Gurdwara had not been preferred. Under section 7(1) any fifty or more Sikh worshippers of a Gurdwara of the age of 21 years or more, are entitled to make a petition to the State Government within the specified period with the prayer that a particular Gurdwara be declared a Sikh Gurdwara. On receipt of the petition, the Government is required to publish a notification under section 7(3) relating to the said Gurdwara and also the right, title or interest in immovable property attached to the said Gurdwara. On the publication of such a notification, any hereditary officeholder or any 20 or more worshippers of the Gurdwara, of 21 years of age or more, are entitled to make a claim, that such a Gurdwara was not a Sikh Gurdwara, within a specified time. If no such petition is made within the time, the State Government is required to publish a notification under section 9 declaring the Gurdwara concerned to be a Sikh Gurdwara. Regarding the right, title or interest in the properties relating to the Gurdwara, a petition can be forwarded by any person under section 10(1) within the prescribed time, giving the requisite details and the basis of the claim. If no such claim is forwarded, the State Government shall publish a notification to this effect under section 10(3), and the said notification shall operate as conclusive proof to the effect that no such claim had been preferred. If any claim is preferred with regard to the Gurdwara or the properties thereof, by the persons entitled to do so, the same is to be decided by the Sikh Gurdwara Tribunal, constituted

under Chapter III of the Act, and after the decision by the Tribunal, a suit for possession can be filed before the Tribunal for possession of the Gurdwara and its properties either by the Committee of the Gurdwara concerned or the person concerned under section 25-A, in whose favour the Tribunal had decided the matter in controversy. In case, no such claim is preferred under section 7 and the notifications under sections 5(3) and 10(3) are published, the Committee of the Gurdwara concerned as constituted in accordance with the other provisions of the Act, has the right to file a suit under section 28 on behalf of the Gurdwara for possession of any property or proprietary title in accordance with the notification.

(26) It is evident from the preamble of the Act, that one of the main purposes for bringing the Act on the statute book was "to provide for the better administration of certain Sikh Gurdwaras." Whereas in some provisions, as contained in Chapter II and in sections from 3 to 10 therein, machinery has been provided to get the Gurdwaras in the State declared as notified Sikh Gurdwaras and the properties relating thereto as belonging to the said institutions, sections 39, 40 and 41 in Chapter III deal specifically with the questions relating to the control of such Sikh Gurdwara. According to section 40, there has to be a Board and a Committee of Management for every notified Sikh Gurdwara. The Board is to comprise of elected and co-opted members and has to be constituted in accordance with the provisions contained in sections 43 to 69. The powers and duties of the Board are contained in sections 125 to 132 in Chapter X. A perusal of section 125 makes it clear that the Board is to exercise overall supervisory powers over all Committees of Management constituted for the management and administration of various Sikh notified Gurdwaras. The powers and duties of Committees of Management are provided in Chapter XI in sections 133 to 140, Sections 85 to 105 in Chapter VIII deal with the constitution and composition of Committees of Management. In sections 85(1)(i) to (xii), there is a reference to a number of Gurdwaras of historical importance and their management has been vested directly in the Board and to carry out this duty, the Board is to act as the Committee of Management for all these Gurdwaras. [For the purpose of management of other notified Sikh Gurdwaras, it is specifically provided under section 86 that a Committee shall be constituted for each notified Sikh Gurdwara or any two or more such Gurdwaras. Under section 88, it has been specifically and expressly provided that the Committees of Management will be constituted after a

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particular Gurdwara or Gurdwaras have been declared to be Sikh Gurdwaras under the provisions of the Act. Sub-section (1) to section 88 is reproduced below :—

“The Committee shall be constituted as soon as may be after the constitution of the Board; provided that no Committee shall be constituted for any Gurdwara under the provisions of this Act before it has been declared to be a Sikh Gurdwara under the provisions of this Act or the provisions of part III have been applied to it under the provisions of section 38.”

From its perusal, it is clear that the stage for constituting a Committee of Management pertaining to any Sikh Gurdwara is reached only after the said Gurdwara had been declared to be a notified Sikh Gurdwara under sections 3, 5 and 10 of the Act, and not before, under section 87, the constitution and composition of such Committees is specifically provided. A close perusal of the various sub-clauses of this provision which have been reproduced in the earlier part of this judgment makes it abundantly clear that each Committee of Management will comprise of five members; one of whom will be a member of the scheduled caste. Where the “gross annual income of a particular Gurdwara or Gurdwaras of which the Committee is constituted, does not exceed Rs. 3,000, the Committee thereof shall comprise of only nominated members and the power of nomination has been vested in the Board. In the case of a Gurdwara or a number of Gurdwaras, which are clubbed together for the purpose of constituting a Committee with annual income exceeding Rs. 3,000, the Committee of Management has to be a predominantly elected body inasmuch as four out of the five members will be elected in accordance with the other provisions of the Act and the power of nomination by the Board is restricted to only one member. Even in those extreme cases where for one reason or the other the members cannot be elected, and the Board has been given the power to nominate them, the nominated members have been given the right to function only so long as the members have not been elected. Another significant condition attached to the composition of the Committees is that all the members whether nominated or elected, as the case may be, must be residents of the district in which the Gurdwara or one of the Gurdwaras is situated. Thus, the intention of the legislature has been left in no doubt that a Committee of

Management relating to a Gurdwara or a number of Gurdwaras must be an elected body whose financial position is such that the income of such institutions is more than Rs. 3,000 annually. The anxiety of the legislature clearly appears to be that the management of the Gurdwaras with an annual income beyond a certain limit must be with the elected representatives of the people of the district in which the Gurdwara or the Gurdwaras are situated in order to inspire more confidence amongst the worshippers of the institution. The Board was given the right of nominating a Committee only in respect of minor Gurdwaras with a limited income and in which cases it was not thought desirable to take resort to election of the members of the Committee.

(27) The Committees so constituted were invested with the corporate character under section 94-A and could sue or be sued in their corporate names.

(28) As discussed above, the necessity for constituting a Committee of Management of any Gurdwara or a number of Gurdwaras arose when those institutions had been declared to be notified Sikh Gurdwaras either as a result of the decision of the Tribunal or consequent to the notification by the Government under sub-section (3) to section 5 or under sub-section (3) to section 10. Obviously, before that stage was reached, such Gurdwaras and the properties attached to them were not under the supervision or control of the Board or any other institution under the provisions of the Act. The management of each Gurdwara must be either with a Mahant or some other office-holder whether hereditary or otherwise. A Committee of Management constituted under section 87 becomes entitled to possession of the Gurdwara and its properties only after the declaration of a Gurdwara or Gurdwaras as notified Sikh Gurdwaras. That is why the power was vested in such Committees to institute suits for possession of the properties of such Gurdwaras under section 25-A before the Tribunal and under section 28 in the civil Court.

(29) In the present case, we are concerned with the powers and rights of the Committee under section 28, which is reproduced below :—

“28(1) When a notification has been published under the provisions of sub-section (3) of section 5 or of sub-section (3) of section 10, the Committee of the Gurdwara concerned may bring a suit on behalf of the Gurdwara for the

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possession of any property a proprietary title in which has been specified in such notification, provided that the Gurdwara concerned is entitled to immediate possession of the property in question, and is not in possession thereof at the date of the publication of such notification.

- (2) The suit shall be instituted in the principal Court of original jurisdiction in which the property in question is situated within a period of ninety days from the date of the publication of such notification, or from the date of the constitution of the committee, whichever is later, and if a suit is not instituted within that period, no subsequent suit on behalf of the Gurdwara for the possession of the property shall be instituted in any Court except on the ground of the dispossession of the Gurdwara after the date of the publication of such notification.”

Its perusal shows that for the purpose of limitation for filing the suits under this provision, two termini have been provided. A suit can be instituted either within 90 days from the date of the publication of a notification declaring the Gurdwara to be a Sikh Gurdwara or within 90 days from the date of the constitution of the Committee, whichever is later. As the suit under section 28 is one for possession, it is clear that the Committee of Management will not be in possession of the property of the Gurdwara concerned before the filing of the suit.

(30) The emphatic contention of the learned counsel for the appellant is that the Committee of Management is required to be an elected body as envisaged under sub-clause (b) to sub-section (1) to section 87, only in those cases where the income of the property relating to such Gurdwara or Gurdwaras annually exceeding Rs. 3,000 actually accrued to such a Committee of Management and till the time the Committee began getting the income of such an institution, the same was to be a nominated body as envisaged under sub-clause (a) to sub-section (1) to section 87. In support of this proposition, reliance was placed on the decision in *Jalaur Singh's case* (supra), the relevant part of which has been reproduced in the earlier part of this judgment. If this interpretation were to be accepted, the result will be that the Committee of Management in case of any notified Sikh Gurdwara or Gurdwaras must be exclusively and entirely nominated body before the suit under section 28 or

section 25-A, as the case may be, was filed and such a nominated body is to continue to function till the time the suit for possession was decreed and the Committee in execution of the same came into actual possession of the property of such Gurdwara or Gurdwaras and their income was deposited in the coffers of the Committee. This conclusion is sought to be buttressed by an argument that before the filing of the suit, the management of the property is in the hands of the Mahant or any other person who may be appropriating the income of the institution to himself and may not be either maintaining any account books therefor or may not show the income in the account books even if they are maintained and it will not be possible or practicable for the Board to arrive at a correct decision as to whether the income of the Gurdwara or the Gurdwaras was in excess of the minimum limit as fixed in sub-clauses (a) and (b) of section 87(1). Undoubtedly, the power of constituting a Committee of Management whether by nomination or election is vested in the Board or the Government on the recommendation of the Board. It can also not be denied that before a Committee of Management is constituted, the properties of the institution will not be under the control and management of the Board and as such maintenance of accounts and the income of the properties will be exclusively under the control of any person in charge of the institution or the property, but this fact alone cannot be pressed into service to side-track or to ignore the clear and express mandate of the legislature as embodied in sub-clauses (a) and (b) of section 87(1). It is for the Board to employ agencies under its control to make an estimate of the income of the properties of any Gurdwara concerned and *bona fide* arrive at a result whether its annual income was in excess of Rs. 3,000 or not. Even if the income of a particular institution is being misused and misappropriated by any person in charge of its management, assessment of income of the same even if it has to be approximate, is not an impossible act. So far as the agricultural lands are concerned, rough estimate of the income can be made from the *Girdawaris* and the other revenue record in which the estimates of the crops grown on the same and their value is duly entered. As far as the other things in the Gurdwara are concerned, a visit to the village where the institution is situated and any genuine enquiry will provide necessary data to arrive at an approximate idea of the income even if an exact amount cannot be worked out. Even if the estimate of the income as arrived at by the Board, of a particular Gurdwara or Gurdwaras, is challenged before the Court, the latter will exercise its judicial discretion in assessing the evidence on the record and come to a finding if the conclusion

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arrived at by the Board regarding the income of a Gurdwara or Gurdwaras was correct or not. I have no doubt in my mind that where the assessment of the income of an institution has a marginal effect, keeping in view the minimum limit of Rs. 3,000 as fixed in section 87, the conclusion arrived at by the Board is bound to be given due weight by the Court concerned. But to say that in view of some real or imaginary difficulties which may be experienced in assessing the income of the institution concerned, sub-clauses (a) and (b) of section 87(1) should be construed in such a manner that the result is that sub-clause (b) which provides for the constitution of the elected body of management is rendered nugatory or non-existent, will be contrary to the well settled and established principles of interpretation of statutes.

(31) In the *Collector of Customs, Berede v. Digvijaysinhji Spinning & Weaving Mills Ltd., Jamnagar*, (3), Suba Rao, J., speaking for the Court, laid down two rules of construction of statutes as follows :

“There are two well established rules of construction namely, (1) where the words of a statute are in themselves precise and unambiguous no more is necessary than to expound those words in their natural and ordinary sense, the words themselves in such case best declaring the intention of the Legislature and (2) where alternative constructions are equally open that alternative is to be chosen which will be consistent with the smooth working of the system which the statute purports to be regulating; and that alternative is to be rejected which will introduce uncertainty, friction or confusion into the working of the system.”

(32) In *Firm Hansraj Nathuram v. Firm Lalji Raja and Sons*, (4), where section 43 of the Code of Civil Procedure was required to be interpreted, it was held,—

“The argument was that in the present case the expression “in a Part B State” should be read as if the expression was “in a Part A State.” This again is not permissible for us.

(3) AIR 1961 S.C. 1549.

(4) AIR 1963 S.C. 1180.

Section 43 has to be interpreted as it is and a Court cannot read it as if its language was different from what it actually is. It is not permissible for this Court to amend the law as suggested.”

(33) In *Harendra Nath Chatterjee v. Sailendra Krishna Saha and others*, (5), it was held that it was not permissible to the Court to interpret the provisions of a statute on the assumption that the legislature was not aware of what it said or that the legislature made a mistake. It was further held,—

“The legislature is a proverbial good writer in its own field, no matter that such august body subjected to periodic criticism. And who, in diction, is above criticism? At all events, it is not competent for the Court to proceed on the assumption that the legislature knows not what it says, or that it has made a mistake as in *Commissioner for Special Purposes v. Pemsel*, (6) per Lord Halsbury. On the contrary, the Court must proceed on the footing that the legislature intended what it has said: *Crawford v. Spooner*, (7). Therefore, when the legislature says including, it means just that: what is to be included.”

(34) A close perusal of the above decisions makes it imperative that the Court must interpret the plain language of any provision of a statute giving the words their natural and normal meaning and in our anxiety to fathom the real intention of the legislature, should not import words into a section or a provision. According to the decision in *Jalaur Singh's case* (supra), section 87(1) (a) visualises “income accruing to or coming into the hands of the institution as such.” This interpretation cannot be possible unless the words “accruing or coming into the hands of the Committee” after the words, “gross annual income” are added both in sub-clauses (a) and (b) of section 87(1), and the provision is made to read as under :

“87(1) * * * * *
 * * * * * *

(5) AIR 1967 Calcutta 185.

(6) (1891) AC 531, 549.

(7) (1846) 6 Moo PC 1:4 Moo Ind App 179.

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(a) whose gross annual income accruing to or coming into the hands of the Committee does not exceed Rs. 3,000/-.....”

(b) whose annual monetary income accruing to or coming into the hands of the Committee exceeds Rs. 3,000/-.....”

(35) Resort to such a step will be in clear violation of the accepted principles of interpretation of statutes. Besides, it is also an accepted rule of interpretation that no two provisions can be interpreted in such a manner that the result is that one of the provisions is rendered non-existent. If the interpretation, as suggested by the learned counsel for the appellant is adopted, undoubtedly, sub-clause (b) to section 87(1) will become absolutely non-existent and this the Court is not competent to do.

(36) The Committee of Management for any Gurdwara or Gurdwaras being out of possession of the institution and its properties, the suits under section 28 before the Courts and the petitions under section 25-A before the Tribunal for possession of the properties of the Gurdwaras consequently must be filed only by nominated Committees of Management and the expression “Committee of Management” in these two provisions will have to be read as nominated Committees of Management.

37. The constitution of nominated Committees for all Gurdwaras is also likely to lead to malpractices and resort to undesirable methods. It will be these nominated Committees which will be in charge of the management and income of the properties of the Gurdwaras under them. It will be their vested interest to show income of such properties less than Rs. 3,000/- per year so that they may not be replaced by elected Committees. Thus, the very basic purpose in enacting sub-clause (b) to section 87(1) will be thwarted and defeated in actual practice.

38. Income of the properties of the Gurdwaras as visualised in sub-clauses (a) and (b) of section 87(1) has to accrue to the institution irrespective of the mode and method of its management. It will be illogical to argue that so long the Committee of Management as

provided under the Act, is not constituted and the same does not get into possession of the properties of a particular Gurdwara the profits and income of such a Gurdwara cannot be deemed to accrue to the institution. Whether the income of a particular Gurdwara or the property goes into the pocket of A or B, does not make any change in the situation. In law, it must be held to accrue to the institution concerned. The only difference after the constitution of the Committee is that the income is at the disposal of the Committee for disbursement and utilisation which was at the disposal of some other person or body of persons prior to the constitution of the Committee.

(39) In *Jalaur Singh's case* (supra), the suit under section 28 had been filed on behalf of the Board as the same constituted itself as the Managing Committee of the Gurdwara concerned. The suit was decreed in favour of the Board which was challenged in appeal by the Mahant and some other persons. The contention that the income of the land attached to the Gurdwara was likely to be in excess of Rs. '3,000|- per year was raised for the first time in appeal and it was held,—

“It has first to be noticed that no such point in terms was raised before the trial Court nor any issue claimed thereon. The matter was entirely one of evidence firstly on the point whether annual income from the properties attached to the Gurdwara was necessarily more than Rs. 3,000 only. No evidence worth the name on the point was led. Again, in the grounds of appeal no such point has been raised on behalf of the appellants and this was even conceded to be so by Mr. Naginder Singh.”

It was after arriving at this conclusion on facts, that the learned Division Bench interpreted section 87(1) (a) in terms, as reproduced in the earlier part of this judgment. From a close perusal of this judgment relating to this aspect of the matter it appears that no argument was addressed on the interpretation of section 87, nor was the learned Division Bench called upon to deal with the matter exhaustively. Reliance by the learned counsel for the appellant on (8) (*Shiromani Gurdwara Parbandhak Committee, Amritsar v. Jagar Singh*), (9) (*Shiromani Gurdwara Parbandhak Committee,*

(8) RFA 127/66, decided on 3rd February, 1977.

(9) RFA 125/66, decided on 8th February, 1977.

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Amritsar v. The Committee of Management of Gurdwara Sahib Padshahi Daswin and others, on (10) (*Shromani Gurdwara Parbandhak Committee, Amritsar v. Mahant Amar Singh*) by O. Chinnappa Reddy, J., (as he then was) does not advance the case of the appellant in any manner, as in all these three cases, the learned Judge deciding the appeals held only that he was bound by the decision of the Division Bench in *Jalaur Singh's case* (supra), and the learned Judge did not apply his mind to the scope and ambit of section 87 independently.

(40) In view of the above discussion, in my considered opinion, section 87 was not interpreted correctly in *Jalaur Singh's case* (supra). In order to implement the intention of the legislature, both the clauses, (a) and (b) of section 87(1) must be made to operate to the fullest extent. This object can be achieved only if it is mandatory on the Board to come to a definite finding regarding the income of the properties of a particular Gurdwara before it undertakes to constitute a Committee of Management for the first time. Keeping in view the gross annual income of the institutions, the Committee of Management to be set up will have to be either a nominated body or an elected body according to either of the clauses (a) and (b) of section 87(1). Unless a Committee of Management is properly constituted and set up in this manner, the same cannot be treated as a body corporate so as to be competent to sue or be sued in its corporate name as provided under section 94-A.

(41) Before the enforcement of the Act in 1925, there was complete absence of any law pertaining to the management and administration of Gurdwaras in the State. With the dominant purpose to improve the administration of Gurdwaras and to prevent malpractices in their management, two bodies were set up; the Board and the Committees of Management for various Gurdwaras. Under section 43, the composition of the Board prescribed is such that the overwhelming majority of its members are to comprise of the elected elements to be elected by the "Sikhs" in the entire State as defined in section 2(9). The Gurdwaras of historical importance and having all State character, as referred to in section 85, are to be administered, managed and supervised by the Board itself in its capacity as the Committee of Management. All other Gurdwaras, which come

(10) RFA 128/66, decided on 23rd February, 1977.

within the operation of the Act, are to be managed by separate Committee of Management though there can be one such Committee for more than one Gurdwara. Only those Gurdwaras which have not been able to establish their importance inasmuch as the income from the offerings by the worshippers and the properties attached to the institution does not exceed Rs. 3,000 annually or in other words, Rs. 250 per month, are left to the management of nominated Committees. Otherwise, all other Gurdwaras are intended to be left to the management and administration of Committees with the predominance of elected elements. That is why, purposely and intentionally the legislature prescribed the limited financial limit for the nominated Committees at a very low level. The very fact that the State Legislature has not thought it fit to raise this limit from the meagre annual income of Rs. 3,000 despite the considerable rise in the income of each Gurdwara from the lands, properties and the offerings shows that its intention continues to be that the management of the Gurdwaras in order to inspire confidence of the worshippers must be in the hands of the elected bodies and not nominated ones. While interpreting the scope of sub-clauses (a) and (b) of section 87(1), it is the duty of the Court to adopt such interpretation which will further and advance the purpose and scheme of the Act and not defeat the same. This can be done only if the provisions of section 87 are interpreted as discussed above.

(42) As the appeal was referred to this Bench only regarding the interpretation of section 87(1) (a) and (b), and no arguments were addressed on either side relating to any other question arising in this appeal, it will not be proper for me to express any opinion on the same which will be obviously decided by the Division Bench deciding the appeal on merits.

S. S. Sandhawalia, C.J.

(43) I have the privilege of perusing the lucid and elaborate judgments recorded by my learned brethren Dhillon and Harbans Lal, JJ. with respect to Harbans Lal, J. I entirely agree with the view expressed by Dhillon, J. and have nothing to add.

Prem Chand Jain, J.

(44) I too agree with the view explained by brother Dhillon, J., and have nothing to add.

Gurnam Singh, J.

(45) I also agree with my Lord Dhillon, J.

N.K.S.