

APPELLATE CIVIL

Before Man Mohan Singh Gujral, J.

GURDWARA PARBANDHAK COMMITTEE,—Appellant,

versus.

SHIROMANI GURDWARA PARBANDHAK COMMITTEE,
AMRITSAR,—Respondent.

F. A. O. No. 12 of 1970.

September 20, 1971.

Sikh Gurdwaras Act (VII of 1925)—Sections 124(2) and 142(3)—Order under section 124(2)—Appeal against—Whether competent.

Held, that there is no provision in the Sikh Gurdwara Act, 1925 for an appeal against an order passed under Section 124(2) of the Act. No appeal lies against such an order under section 142(3) of the Act also. What is appealable to the High Court under this section is an order passed by the Sikh Gurdwara Judicial Commission under sub-sections (1) or (2). An order passed by the Commission under section 124(2) is not contemplated by these sub-sections of Section 142. An order under sub-section (2) of section 124 is only regarding payment of the sum due from any Gurdwara and does not relate to misfeasance or malfeasance etc. Hence no appeal is competent against an order passed under section 124(2) of the Act. (Paras 2 and 3).

First Appeal from the order of the Court of Sikh Gurdwara Judicial Commission, Amritsar, dated 3rd September, 1969, directing the respondent committee to pay Rs. 2186-81 to the petitioner committee in four equal 6 monthly instalments of Rs. 546-70 each. In default of payment of any amount, the petitioner committee shall be entitled to realise the whole amount then due in lump sum.

Gurrattanpal Singh, Advocate, for the appellant.

B. S. Shant, Advocate, for the respondent.

JUDGMENT

GUJRAL, J.—(1) This is an appeal against the order of the Sikh Gurdwara Judicial Commission, Amritsar, dated 3rd September, 1969, whereby on an application of the respondent, Shriromani

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Gurdwara Parbandhak Committee, Amritsar, the appellant Committee, was ordered to pay Rs. 2,186.81 in four equal six monthly instalments of Rs. 546.70 each to the respondent-Committee. This order was passed under section 124(2) of the Sikh Gurdwaras Act, 1925 (hereinafter called the Act).

2. On behalf of the respondent-Committee a preliminary objection has been raised that no appeal lies against an order passed under section 124(2) of the Act and the appeal is, therefore, not competent. There seems considerable merit in this argument. Under section 107(1) of the Act, "every committee shall pay annually to the Board for the purpose of meeting the lawful expenses of the Board a contribution in money out of the income of the gurdwara or gurdwaras under its management." This proportion has to be fixed by the Board under sub-section (2) of section 107 of the Act, which shall not exceed one-tenth of the income of the gurdwara. If the contribution has been fixed the Board is required to issue a notice to the gurdwara under section 124(1) of the Act, to pay the contribution. If the committee of the gurdwara fails, after due notice to pay the contribution; the Board is entitled to make an application to the Commission under section 124(2) of the Act and the Commission has then to decide the amount payable by the committee of the gurdwara. An order has then to be passed directing the committee to pay a sum, payable either in lump sum or by instalments as it deems fit. After an order under section 124(2) of the Act is passed, the committee of the gurdwara is required to make the payment. There is no provision in the Act for an appeal against an order passed under section 124(2) of the Act.

3. On behalf of the appellants it is contended that an appeal lies under section 142(3) of the Act. This contention is wholly without merit. Under sub-section (1) of section 142 an application to the Commission lies against the Board, the Executive Committee of the Board, or the Committee, or against any member or past member of the Board, of the Executive Committee or of the Committee, or against any office-holder or past officer-holder of the Gurdwara or against any employee past or present of the Board or Gurdwara in respect of any alleged malfeasance, misfeasance, breach of trust, neglect of duty, abuse of powers conferred by this Act or any alleged expenditure on a purpose not authorised by this Act. Such an application can also be filed by the Board under sub-section (2) of section

142 and any order passed by the Commission under sub-section (1) or (2) is appealable to the High Court under sub-section (3) of section 142. The order passed by the Commission under section 124(2) is not contemplated by sub-section (1) of section 142 and is not appealable under sub-section (3) of section 142 of the Act. An order under sub-section (2) of section 124 is only regarding payment of the sum due from any gurdwara and does not relate to misfeasance or malfeasance, etc. I, therefore, find that no appeal is competent against an order passed under section 124(2) of the Act.

4. Faced with this situation, it is prayed that the appeal be treated as a revision or a petition under Article 226 or 227 of the Constitution of India. No revision is provided against an order passed by the Commission under section 124(2) and this being the position the present appeal cannot be treated as a revision. So far as constitutional remedies are concerned, they are entirely different from an appeal and a petition for appeal cannot, therefore, be treated as a petition under Article 226 and 227 of the Constitution of India.

5. For the reasons stated above, this appeal is dismissed as not maintainable. Considering the circumstances the parties are left to bear their own costs.

B. S. G.

LETTERS PATENT APPEAL

Before D. K. Mahajan and H. R. Sodhi, JJ;

RANIAN AND ANOTHER,—Appellants.

versus.

HON. LT. SEWA SINGH AND OTHERS,—Respondents.

Letters Patent Appeal No. 851 of 1970.

September 21, 1971.

Punjab Security of Land Tenures Act (X of 1953 as amended by Act XII of 1968)—Section 19-D and 19-DD—Grant of land for distinguished services in the Army—Such grant—Whether for gallantry within the meaning of Sections 19-D and 19-DD.