



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP-9966-2025(O&M)
Date of decision :07.04.2025

TAKHT SRI KESHGARH SAHIB THROUGH ITS MANAGER
SH. MALKIAT SINGH

...Petitioner

Versus

FINANCIAL COMMISSIONER (APPEALS), PUNJAB CIVIL
SECRETARIAT, CHANDIGARH AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Gurmohan Singh Bedi, Advocate
for the petitioners.

Mr. Navneet Singh, Sr. D.A.G., Punjab.

HARSH BUNGER, J. [ORAL]

Petitioner (Takht Sri Keshgarh Sahib) has filed the instant writ petition under Articles 226/227 of the Constitution of India, seeking issuance of a writ in the nature of *certiorari* for setting aside the order dated 17.12.2024 (Annexure P-9) passed by the learned Financial Commissioner (Appeals), Punjab.

2. Briefly, the land comprised in *Rectangle No.142, Killa No.1(0-19)* to the extent of *8.5 marlas* and *Rectangle No.142, Killa No.2/5 (0-18)* situate at Village Lodhipur, Tehsil Sri Anandpur Sahib, was transferred in favour of Gurudwara Baba Sri Chand, vide two separate sale deeds. The sale deed in respect of *khasra No.142//2/5(0-18)* was executed

on 06.01.2010 (Annexure P-1) and sale deed in respect of 8.5 *marlas* out of *khasra No.142//1* was executed on 14.09.1994 (Annexure P-2).

2.1 Both the afore-said sale deeds were executed in favour of Gurudwara Baba Sri Chand through its Mahant-Jodh Singh and Piara Singh, respectively. In the afore-said sale deeds, there was a clear recital that the said land cannot be sold out or mortgaged, in favour of anyone.

2.2 It appears that said Piara Singh, who was the son of earlier Mahant-Jodh Singh executed a Will dated 20.06.2014 regarding the afore-said *Killa Nos. i.e. 142//1, 142//2/5* in favour of Takht Sri Keshgarh Sahib, Sri Anandpur Sahib under Shiromani Gurudwara Prabandhak Committee.

2.3 It transpires that said Piara Singh, expired on 26.05.2016; whereupon, respondent No.4-Sarabjit Singh submitted an application dated 05.04.2021 before the learned Tehsildar, Sri Anandpur Sahib, for sanctioning the mutation on the basis of an un-registered Will dated 02.04.2016. Accordingly, mutation No.5787 came to be entered and since the said mutation was contested by the present petitioner, therefore, the same was placed before the learned Sub Divisional Magistrate-cum-Assistant Collector Ist Grade, Sri Anandpur Sahib, who vide his order dated 30.09.2021 (Annexure P-6) sanctioned the mutation in favour of the petitioner.

2.4 Feeling aggrieved, respondent No.4 preferred an appeal against the order dated 30.09.2021 (Annexure P-6) before the learned Collector, Rupnagar, however, the same was dismissed vide order dated 14.03.2023 (Annexure P-7).

2.5 Still dissatisfied, the respondent No.4 preferred a revision petition (**ROR-581-2023**) before the learned Financial Commissioner (Appeals), Punjab, which came to be allowed vide order dated 17.12.2024 (Annexure P-9) and the matter was remanded to the learned Assistant Collector Ist Grade, Sri Anandpur Sahib, to adjudicate the matter afresh.

2.6 In the afore-mentioned circumstances, the present writ petition has been filed before this Court, for the relief/s, as noticed here-in-above.

3. Heard.

4. It is apparent from the perusal of the Sale Deeds (Annexures P-1 and P-2) that the property was transferred in favour of Gurudwara Baba Sri Chand with a clear recital in the sale deeds that the said property could not be sold or mortgaged further. Evidently, Sh. Piara Singh executed a Will dated 20.06.2014 (Annexure P-3), wherein, he had represented himself as the Manager/Administrator of the Gurudwara Baba Sri Chand and the property was bequeathed in favour of the petitioner herein. On demise of Sh. Piara Singh, respondent No.4, by claiming himself to be the Mahant/Mohtamim of Gurudwara Baba Sri Chand Udaseen, claimed transfer of the afore-said Killa Nos. on the basis of an alleged Will, in his favour; whereupon, the proceedings by way of *Mutation No.5787* were commenced, which were decided in favour of the petitioner. However, the learned Financial Commissioner has set aside the orders passed by the learned Assistant Collector Ist Grade, Sri Anandpur Sahib as well as the order passed by the learned Collector, Rupnagar and has remanded the matter back to the learned Assistant Collector Ist Grade, Sri Anandpur Sahib, for deciding the matter afresh, by observing as under :-

“6. I have heard and considered the arguments advanced by counsels for the parties and have perused the

documents available on file. On perusal of the file, it is evident that the main issue involved in the present revision petition is that “whether Piara Singh, as Mahant/Mohatmim, had the authority to execute the registered Will and to execute an agreement to sell concerning the property, which was purchased for religious purposes and remains under the ownership of Gurdwara Sri Chand Ji Udaseen.” The sale deeds contain specific terms that restrict the transfer or alienation of the property and these terms have not been analyzed or discussed in the impugned orders by the courts below. The customs and conventions of Dera Udaseen, as submitted by the petitioner, which govern the management and devolution of the proeprty also require proper examination. The petitioner’s assertion that such customs prohibit the alienation of the property and that the property devolves to spiritual heirs under these conventions has not been addressed. Additionally, the petitioner’s appointment as Mahant/Mohatmim by a resolution of the Sant Samaj has implications for the management of the property, which should have been examined in light of the evidence on record. The reliance placed on the registered Will and agreement to sell, while valid as documents under law, must be assessed in the context of the specific terms of the sale deeds and the customary practices governing the property. A comprehensive inquiry is necessary to determine whether these documents could confer rights inconsistent with the stated terms and religious customs associated with the property. The Procedural aspects of the mutation proceedings, including whether evidence was adequately considered, remain unclear from the orders. Given the nature of mutation proceedings as summary in nature, a detailed and reasoned assessment of the relevant issues and evidence is necessary but it is lacking in the present case. Therefore, keeping in view the facts and circumstances of the present case, I am of the view that the present case requires to interference of this court.

7. Resultantly, the present revision petition is accepted and the order dated: 14.03.2023, passed by ADC-cum-Collector, Rupnagar and the order dated: 30.09.2021, passed by SDM-cum-Assistant Collector, Ist Class, Sri Anandpur Sahib are set aside. The case is remanded to the SDM-cum-Assistant Collector, Ist Class, Sri Anandpur Sahib to adjudicate the matter afresh with the direction to conduct a spot inspection, examine the evidence presented by both parties and consider the legal, factual and customary aspects involved in this case. A reasoned and detailed order is to be passed after addressing all the arguments and submissions of the parties in accordance with the applicable law.”

4.1 A perusal of the above extracted observations made by the learned Financial Commissioner, would manifest that a specific issue has been framed as to whether Piara Singh, being the Mahant/Mohtamim, had the authority to execute the registered Will, concerning the property, which was transferred in favour of Gurudwara Baba Sri Chand Ji Udaseen, for religious purposes.

5. In my considered opinion, the afore-said issue would certainly arise in the peculiar facts and circumstances of the present case, especially, keeping in view the recitals in the sale deeds, whereby, the property was transferred in favour of Gurudwara Baba Sri Chand Ji Udaseen.

5.1 In *A.A. Gopalakrishnan v. Cochin Devaswom Board, 2007 (7) SCC 482*; Hon'ble the Apex Court held as under:-

“10. The properties of deities, temples and Devaswom Boards, require to be protected and safeguarded by their Trustees/Archaks/Sebaitis/employees. Instances are many where persons entrusted with the duty of managing and safeguarding the properties of temples, deities and Devaswom Boards have usurped and misappropriated such properties by setting up false claims of ownership or tenancy, or adverse possession. This is possible only with the passive or active

collusion of the concerned authorities. Such acts of 'fences eating the crops' should be dealt with sternly. The Government, members or trustees of Boards/Trusts, and devotees should be vigilant to prevent any such usurpation or encroachment. It is also the duty of Courts to protect and safeguard the properties of religious and charitable institutions from wrongful claims or misappropriation..."

6. Keeping in view the above discussion, I find no compelling reason to interfere in the order dated 17.12.2024 (Annexure P-9) passed by the learned Financial Commissioner (Appeals), Punjab, accordingly, the writ petition is dismissed.

7. All pending application/s, if any, shall also stand closed.

April 07, 2025
gurpreet

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No