

(1997) 04 P&H CK 0013

High Court Of Punjab And Haryana At Chandigarh

Case No: Regular First Appeal No. 1096 of 1979

Mohant Hardial Singh

APPELLANT

Vs

Mohant Gurnam
Singh

RESPONDENT

Date of Decision: April 30, 1997

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Order 1 Rule 10, 92

Citation: (1997) 2 CivCC 89 : (1997) 3 RCR(Civil) 189

Hon'ble Judges: V.K. Bali, J

Bench: Single Bench

Judgement

@JUDGMENTTAG-ORDER

V.K. Bali, J.

Originally this appeal was filed by Mohant Hardial Singh an unsuccessful Defendant against whom Plaintiffs, namely, Gurnam Singh, Sant Gulzar Singh and Tara Singh successfully maintained suit u/s 92 of the CPC for his removal from Mahantship and management of Dera Thakran, Amritsar. The Plaintiffs" had further prayed that after removing Hardial Singh from Mahantship, Gurnam Singh be appointed as Mahant of Dera Thakran, Amritsar. It is well borne out from the judgment and decree passed by Shri Prithipal Singh Grewal, Additional District Judge, Amritsar that whereas first relief asked for by the Plaintiffs was allowed, i.e. Mahant Hardial was removed, the second relief i.e. for appointment of Gurnam Singh as Mahant of Dera Thakran, Amritsar, was rejected.

2. Mr. Viney Mittal, learned Senior Counsel appearing for Jarnail Singh i.e. the substituted Appellant as Hardial Singh died during the pendency of the appeal, informs the Court that both Hardial Singh and Gurnam Singh have died. He also informs the Court that in main suit there was no challenge to the appointment of Hardial Singh as Mohant and all that was stated was to remove him as he was

mismanaging the affairs of the Dera. It was also for the mismanagement indulged in by him that the Civil Court had decreed the suit removing him from Mahantship of the Dera. However, before he died i.e. 1.8.1991, Hardial Singh had executed a Will in favour of Jarnail Singh. This Will was executed on 3.9.1979 i.e. prior to a date when the decree was passed. Mr. Viney Mittal also informs the Court that Nirmal Mahamandal Bheikh vide resolution dated 10.8.1991 has approved appointment of Jarnail Singh as Mahant of Dera Thakran, Amritsar. On the strength of the facts detailed above, Mr. Mittal contends that this appeal has become infructuous and may be accordingly dismissed. Mr. C.L. Sharma, learned Counsel appearing on behalf of the Respondents could not controvert the contention of the learned Counsel for the Appellant that the present appeal has become infructuous.

The Court after going through the facts of the case to which there is no dispute is also of the view that the present appeal has become infructuous. The same is dismissed as such.

3. So far as appointment of Hardial Singh as Mahant of Dera Thakran, Amritsar is concerned, that was never in question. All that was sought to be maintained was that Hardial Singh had mismanaged the affairs of the Dera and therefore, he deserves to be removed. If Hardial Singh was properly appointed Mahant, he could well execute a Will for appointment of his Chela as a Mahant. Of course, such an appointment had to be ratified by Bheikh. Be that as it may be, the fact remains that both Hardial Singh who was removed as Mahant of the Dera and the one who is sought to be appointed through the suit i.e. Mahant Gurnam Singh have died. If any one be now aggrieved of the appointment of Jarnail Singh, he may bring a separate suit.

4. At this stage Mr. Sharma states that Mahant Charanjit Singh has been appointed as Mahant of the Dera. It is refuted by Mr. Vinay Mittal, learned Senior Counsel representing the Appellant who states that an application filed by Charanjit Singh under Order 1 Rule 10 of the CPC was dismissed by this Court vide order dated 23.11.1991. However, if it be the case of Charanjit Singh that he is the only duly appointed Mahant of Dera, he may also establish the same in accordance with law. In so far as the present appeal is concerned that does not survive having been rendered infructuous. It is made clear that if there would be any dispute inter se between the Appellant and Charanjit Singh as regards the Mahant of Dera, it can be settled separately by an independent proceedings.