

Before P. C. Jain, A.C.J. & I. S. Tiwana, J.

SHIROMANI GURDWARA PARBANDHAK COMMITTEE,

AMRITSAR,—Decree-Holder.

versus

JALOUR SINGH AND ANOTHER,—Judgment-debtors.

Civil Reference No. 1 of 1981

November 14, 1984.

Sikh Gurdwaras Act XXIV of 1925)—Section 12(10)—Punjab Courts Act (VI of 1918)—Sections 21 and 24—Decree for possession of land and other property obtained by the Sikh Gurdwara Parbandhak Committee from the Court of District Judge, Barnala—Decree sought to be executed in the Court of Additional District Judge, Barnala—Such court—Whether has jurisdiction to execute it in view of section 12(10) of the Sikh Gurdwaras Act—Notification by the High Court under section 21(2) of the Punjab Courts Act—Effect of.

Held, that a bare perusal of section 21 of the Punjab Courts Act, 1918 shows that under sub-section (2), the Additional District Judge shall have the jurisdiction to deal with and dispose of such cases only as the High Court, by general or special order, may direct them to deal with and dispose of or as the District Judge of the District may make over to them for being dealt with and disposed of. Under sub-section (3), an Additional District Judge, who deals with and disposes of such cases, shall be deemed to be the Court of the District Judge. Under the notification issued by the High Court, all the cases pertaining to Barnala tehsil are to be dealt with and disposed of by the Court of the Additional District and Sessions Judge at Barnala with the result that under sub-section (3) of section 21, such an Additional District Judge shall be deemed to be the Court of the District Judge. Section 12(10) of the Sikh Gurdwaras Act, 1925 says that save as otherwise provided in that Act, a decree or order of a tribunal shall be executed or otherwise given effect to by the District Court of the District. Now, in view of the notification and the other relevant provisions of the Punjab Courts Act, the Court of Additional District Judge at Barnala shall be deemed to be the Court of the District Judge with the result that it shall be deemed to be the District Court for the purposes of section 12 (10) of the Sikh Gurdwaras Act. Thus, the Additional District Judge, Barnala, has the jurisdiction to execute the decree.

(Para 6)

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of 1979 in F.A.O. No. 353 of 1979 decided on November 13, 1979.

OVERRULED.

Case referred by Single Bench consisting of Hon'ble Mr. Justice J. V. Gupta to a Division Bench on January 6, 1984 as an important question of law was involved in the case. The Division Bench consisting of Hon'ble the Acting Chief Justice Mr. P. C. Jain and Hon'ble Mr. Justice I. S. Tiwana, decided the question involved in their judgment dated November 14, 1984.

Reference made by Shri M. S. Gill, Additional District Judge, Barnala, under section 113 of the Civil Procedure Code to seek the decision of this Hon'ble High Court on the law point involved in the case,—vide his order dated 24th January, 1981. The law point on which the decision is sought is as under:—

“Because of the two conflicting judgments of Punjab and Haryana High Court, as to whether the court of Additional District Judge had the jurisdiction to execute the decree passed by the Tribunal under sub-section (10) of section 12 of the Sikh Gurdwaras Act, 1925 or not.”

Narinder Singh, Advocate, for the Petitioner.

J. C. Batra, Advocate, for the Respondent.

JUDGMENT

Prem Chand Jain, A.C.J.

(1) The learned Additional District Judge, Barnala has made this reference under section 113 of the Code of Civil Procedure for the opinion of this Court about his jurisdiction to entertain the execution application in the wake of the two conflicting judgments of this Court. This reference initially was placed before a learned Single Judge, who,—vide his order dated 6th January, 1984, in the wake of the two conflicting views, directed the matter to be disposed of by a larger Bench. This is how we are seized of the matter.

(2) In order to appreciate the controversy, certain salient features may be noticed:—

(3) Shiromani Gurdwara Prabandhak Committee, Amritsar (hereinafter referred to as the Committee) obtained a decree for

possession of land and other property on 20th July, 1965 against Jalaur Singh and Partap Singh. This decree was passed by the then District Judge, Barnala and was upheld by his this Court,—*vide* judgment dated 28th October, 1975. During execution proceedings, the judgment-debtors raised an objection that the Executing Court had no jurisdiction as the Court of the District Judge, Sangrur alone was competent to execute it. This objection was contested on behalf of the decree-holder on the plea that the decree sought to be executed was passed by the learned District Judge, Barnala and, in view of Notification No. 408 Gaz./XI.E.II, dated 4th November, 1966, issued by this Court, which reads in the following terms, the Court of the Additional District Judge, Barnala was fully competent to execute the decree:—

“In exercise of the powers conferred by sub-section (2) of section 21 of the Punjab Courts Act, 1918, as amended, and sub-section (2) of section 193 and section 409 of the Code of Criminal Procedure, as amended by the Punjab Separation of Judicial and Executive Functions Act (Punjab Act No. 25 of 64), the Hon'ble the Chief Justice and Judges have been pleased to direct that all Civil Appeals, Sessions cases, Criminal Appeals and other ancillary Civil and Criminal Misc. petitions, pertaining to the Tahsil of Barnala and Sub-Tahsils of Dhuri and Phul, shall be insited for being dealt with and disposed of, in the court of the Additional District and Sessions Judge at Barnala. The aforesaid matters relating to the aforesaid tehsil/sub-tehsils, already pending in the court of the District and Sessions Judge, Sangrur, shall also be dealt with and disposed of by the Additional District and Sessions Judge, Barnala.”

In support of this plea reliance was placed by the Committee on an unreported judgment of a Single Bench of this Court in *Didar Singh and another v. Shiromani Gurdwara Parbandhak Committee, and another* (1). It appears, as is evident from the reply put forth to the aforesaid contentions of the Committee by the judgment-debtors, that there is another Single Bench judgment of this Court in *Mahant Harsaran Das v. S.G.P.C. Amritsar* (2), wherein a similar

(1) C.R. 1211 of 78 and C.M. No. 2030-C. II of 1978 decided on 15-12-1978.

(2) C.M. No. 3504-C. II of 1979 in F.A.O. 353/79 decided on November 13, 1979.

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question arose and the learned Judge observed thus:—

“ * * * * *

The application for execution of this decree was filed before the Additional District Judge, Barnala, where certain objections were raised by Mahant Harsaran Dass. The objections were dismissed and Mahant Harsaran Dass filed an appeal in this Court on the ground that the execution application only lay before the District Court, Sangrur. It was urged that the Additional District Judge at Barnala could not be termed as being the Presiding Officer of a district Court. It was after notice of motion that the appeal was ultimately admitted by a Division Bench of this Court on September 20, 1979. Execution proceedings were ordered to be stayed.

On behalf of the S.G.P.C. an application has now been filed that the appeal should be accepted on the ground that the Additional District Judge, Barnala, did not have necessary jurisdiction to execute the decree. In that manner the decree-holder wants to avoid the delay which is likely to occur in getting the decree ultimately executed. In the meanwhile a civil suit has already been filed by the appellant before a Sub-Judge Barnala in connection with the objections which had been raised before the executing Court.

The learned counsel appearing on behalf of the appellant agrees to the course which has been suggested by the respondent. This agreed order is, therefore, passed that the Additional District Judge, Barnala, did not have the jurisdiction to execute the decree and on that ground all the proceedings taken before him are held to be without jurisdiction. Any decision given by him shall not, therefore, be taken to be a decision on the merits of the case. The Civil Misc. Application is allowed and the appeal is accepted. The order appeals against is set aside only on the ground of lack of jurisdiction. There shall be no order as to costs.”

(4) From the aforesaid two judgments it is quite evident that on the question of jurisdiction two conflicting views have been expressed and, as earlier observed, this has necessitated the present reference.

(5) We have heard the learned counsel for the parties and find that the Civil Court at Barnala has jurisdiction to execute the decree and the view taken by the learned Judge in *Didar Singh's case* (supra) lays down the correct law. The notification issued by this Court, which has been reproduced above in the earlier part of the judgment, says that all civil appeal, sessions cases, criminal appeals, and other ancillary civil and criminal miscellaneous petitions pertaining to Tehsil of Barnala and Sub-tehsils of Dhuri and Phul shall be instituted for being dealt with and disposed of, in the Court of the Additional District and Session Judge at Barnala. Section 24 of the Punjab Courts Act says that the Court of the District Judge shall be deemed to be the District Court or principal Civil Court of original jurisdiction in the District. Section 21 of the Punjab Courts Act, which is material for the decision of the issue, reads as under:—

“21. *Additional District Judges.*—

- (1) The State Government, in consultation with the High Court, may also appoint Additional District Judges to exercise jurisdiction in one or more courts of the District Judges.
- (2) Additional District Judges have jurisdiction to deal with and dispose of such cases only as the High Court, by general or special order, may direct them to deal with and dispose of or as the District Judge of the District may make over to them for being dealt with and disposed of:

Provided that the cases pending with the Additional District Judges immediately before the 28th day of June, 1963, shall be deemed to be cases so directed to be dealt with or disposed of by the High Court or so made over to them by the District Judge of District as the case may be.

- (3) While dealing with and disposing of the cases referred to in sub-section (2), an additional District Judge shall be deemed to be the Court of District Judge.”

(6) A bare perusal of the aforesaid section shows that under sub-section (2), the Additional District Judges shall have the jurisdiction to deal with and dispose of such cases only as the High Court, by general or special order, may direct them to deal with

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and dispose of or as the District Judge of the District may make over to them for being dealt with and disposed of. Under sub-section (3), an Additional District Judge, who deals with and disposes of such cases, shall be deemed to be the Court of the District Judge. Under the notification dated 4th November, 1966, issued by this court, all the cases pertaining to Barnala Tehsil and Dhuri and Phul sub-tehsils are to be dealt with and disposed of by the Court of the Additional District and Sessions Judge at Barnala with the result that under sub-section (3) of section 21, such an Additional District Judge shall be deemed to be the Court of the District Judge. Section 12(10) of the Sikh Gurdwaras Act, 1925 says that save as otherwise provided in that Act, a decree or order of a tribunal shall be executed or otherwise given effect to by the district court of the district. Now, in view of the notification and the other relevant provisions of the Punjab Courts Act, the Court of the Additional District Judge at Barnala shall be deemed to be the Court of the District Judge with the result that it shall be deemed to be the District Court for the purposes of Section 12(10) of the Sikh Gurdwaras Act. The view taken by a learned Single Judge of this Court in *Mahant Harsaran Das case* (supra), in view of the aforesaid discussion, with respect does not lay down the correct law and, consequently, the same is overruled.

(7) For the reasons recorded above, the reference is answered in favour of the decree-holder that the Court of the Additional District Judge at Barnala is a District Court for the purpose of execution of the decree and for which the Committee had filed the execution application. The parties through their learned counsel have been directed to appear before the Executing Court on 8th January, 1985.

N.K.S.

Before P. C. Jain, A.C.J. & S. S. Kang, J.
BARKAT SINGH AND OTHERS,—*Petitioners.*

versus

HANS RAJ PANDIT AND OTHERS,—*Respondents.*

Civil Revision No. 1478 of 1982.

November 16, 1984.

*Code of Civil Procedure (V of 1908)—Sections 3 and 115—
Motor Vehicles Act (IV of 1939)—Section 110-C to 110-F—Application
made to Tribunal by a party for impleading an additional respon-
dent—Such an application dismissed by Tribunal—Order of*