amount earlier paid by it i.e. Rs. 7,500. The submission of the counsel for the respondent that these are two different awards has thus no force.

(5) There is no gainsaying that the court can take the aid of the "Objects and Reasons" for interpreting a provision of the statute and therefore, it will be beneficial to look to the same. Therein also it has been provided that "the compensation payable by an owner on the basis of wrongful act or negligence on his part would be reduced by the compensation already paid by him under this Chapter "This Chapter" therein refers to Chapter VII-A. Section 92-A and Section 92-B are under this new Chapter VII-A. Thus on the over all view of the matter the approach of the learned Tribunal was wrong and illegal. The Company is entitled to adjust the amount already paid under section 92-A of the Motor Vehicles Act.

(6) Consequently, the petition succeeds, the impugned order is set aside and the application for adjusting the amount of Rs. 7,500 from the total award made for Rs. 48,000 is allowed with no order as to costs.

H.S.B.

FULL BENCH

Before : D. S. Tewatia, Surinder Singh and S. P. Goyal, JJ.

MAHANT LACHHMAN DASS CHELA MAHANT MOTI RAM,—*Appellant*

versus

SHIROMANI GURDWARA PARBANDHAK COMMITTEE, AMRITSAR,—*Respondent.*

First Appeal from Order No. 160 *of* 1976

March 7, 1986.

Sikh Gurdwara Act (VIII of 1925)—Sections 7, 8, 9, 10 and 25A—Petition claiming an institution to be a Sikh Gurdwara published under section 7(3)—Two petitions under sections 8 and 10 filed in

the wake of such publication—Petition under section 8 dismissed and government declaring the institution the Sikh Gurdwara under section 9—List of property not forming part of the notification under section 9(1)—Two institutions with similar names in existence at the time of the notification—Property in dispute sought to be claimed by a Dharamshala in the petition under section 10 though the said claim disputed by the Committee of the Gurdwara—Such a claim—Whether could be enquired under section 10—Section 9(2)—Whether bars the Enquiry—Dispute as to the building in which the Gurdwara is situate—Whether could be gone into—Property claimed as belonging to a juristic person—Petition under Section 10—Whether competent by a trustee on behalf of such a person.

Held (per majority D. S. Tewatia and S. P. Goyal, JJ. Surinder Singh, J. contra), that the notification declaring an institution to be a Sikh Gurdwara does not at all show in which building the Gurdwara is situate; nor any such information is required to be mentioned in the notification under section 9(1) of the Sikh Gurdwara Act, 1925. Column No. 1 only contains information regarding the notification published under section 7(3) which enjoins the Government to publish the application made under section 7(1) and the accompanying property list, as envisaged under section 7(2) through a notification. The list of the property does not form part of the notification under section 9(1). The claim with respect to the property is made under section 10 and has nothing to do with the claim under section 8 which relates to the institution alone. So, the entry made in column No. 1 of notification is no evidence or proof of the fact as to where the institution declared to be Gurdwara is located or situate. The notification, therefore, could neither be availed of for showing as to where Gurdwara Sahib Guru Granth Sahib is located nor it debars an enquiry under Section 10 whether the property in dispute including the building alleged to be the Dharamshala is or is not the property of the said Gurdwara. On the contrary, the Committee would be debarred by the provisions of section 9(2) from showing that the Dharamshala is in fact a Sikh Gurdwara or that the notification relates to the said Dhramshala. It is established beyond doubt that there were two institutions in existence at the time of the notification in the revenue estate—one known as Dharamshala Guru Granth Sahib and the other Sri Gurdwara Sahib Sri Guru Granth Sahib. In the application filed under section 7(1), the Sikh worshippers named the institution claimed to be a Sikh Gurdwara and those worshippers being residents of the village were presumed to know that there were two distinct institutions, one known by the name mentioned in their application and the other as Dharamshala. It is, therefore, obvious that the claim made by them related to the institution which was the Gurdwara and not Dharamshala and that it was the former institution which formed the subject-matter of the notification under section 9(1). The notifioation being a conclusive proof of the fact that the institution named therein is a Sikh Gurdwara, the Committee would be barred from claiming that,

infact, the institution named in the notification is Dharamshala and not the Gurdwara. If incidently there was only one institution in the revenue estate, it might have been open to claim and prove that the said notification related to that institution. But when an institution of the name mentioned in the notification does exist in the revenue estate it would not be open to the Committee to allege and prove that the notification did not relate to that institution and in fact relates to another institution situate in the same revenue estate known as Dharamshala. Therefore, nothing contained in section 9(2) debars the Court in proceeding under section 10 of the Act from enquiring into as to whether the institution named in the notification is situate in the building claimed to be a Dharmshala and whether the property in dispute belongs to the said institution or not.

(Paras 6 and 7).

Held, (per Full Bench), that the claim petition under section 10 can be filed by any person. There is hardly any scope for doubt that the word 'person' whenever used in the statute includes the juristic person as well apart from human beings. Thus, the petition under section 10 is competent by a juristic person through its manager.

(Paras 9 and 10)

Held, (Per Surinder Singh, J. contra) that the dismissal of the petition under section 8 having become final, the dismissal being on the ground that the petitioner had no *locus-standi,* would mean that no petition had, infact, been presented in the eye of law. As a result thereof the necessary Notification under section 9 of the Act was published declaring the institution to be a Sikh Gurdwara. By virtue of the provisions of sub-section (2) of section 9 the publication of such a notification is conclusive proof that the Gurdwara is a Sikh Gurdwara and this matter cannot be reagitated in a different form.

(Para 15).

Lal Chand Mehra and another *vs.* Local Committee of Management Gurdwaras, Amritsar.

A.I.R. 1937 Lah. 106.

DISAPPROVED

(*A Division Bench consisting of Hon'ble Mr. Justice D. S. Tewatia, and Hon'ble Mr. Justice Surinder Singh referred the case to a Larger Bench on 21st November,* 1984 *for decision of an important question of law involved in this case. The Larger Bench consisting of Hon'ble Mr. Justice* D. S. Tewatia, Hon'ble Mr. *Justice Surinder Singh and Hon'ble Mr. Justice S. P. Goyal finally decided the case on 7th March,* 1986. *However, Hon'ble Mr. Justice Surinder Singh gave the dissenting judgment on 7th March,* 1986).

First Appeal from order of the Court of the Sikh Gurdwaras Tribunal, Punjab, Chandigarh, dated the 1st March, 1976 dismissing the claim petition.

T. S. Mangat, Advocate, *for the Appellant.*

Narinder Singh, Advocate, *for the Respondent.*

JUDGMENT

S. P. Goyal, J.

(1) The State Government,—*vide* Notification No. 1480 G. P. dated July 5, 1963, published a petition under sub-section (3) of section 7 of the Sikh Gurdwaras Act, 1925 (hereinafter called the Act) claiming Gurdwara Sahib Guru Granth Sahib situate within the revenue estate of Landa, tehsil Sirhind, district Patiala, to be a Sikh Gurdwara, along with the consolidated list of rights, titles and interests belonging to the said Gurdwara. In the wake of that notification, Mahant Lachhman Dass, appellant, submitted two petitions to the State Government, one under section 8 and the other under section 9 of the Act which were duly forwarded to the Tribunal. The petition filed under section 8 was dismissed,—*vide* order dated January 6, 1972 with the finding that the Mahant being not hereditary office holder of the said Gurdwara, had no *locus standi* to present any claim petition under the said section. The decision of the Tribunal was later on affirmed by the Full Bench in F.A.O. No. 137 of 1972 decided on July 31, 1975.

(2) In the petition under section 10 of the Act the appellant pleaded that the property in dispute belonged to Dera Udasian and not to any Sikh Gurdwara and he was in its possession as Mahant of the said Dera. In the written statement filed by the respondent, his claim was controverted and it was pleaded that the property in dispute belonged to the Gurdwara. It was further stated that the petitioner was only Manager of the Sikh Gurdwara and was in possession of the property as such.

(3) In support of his claim, the appellant adduced both oral and documentary evidence showing that the property belonged to the Dharamshala which was an Udasi Dera and that the Gurdwara Sahib Guru Granth Sahib was a different and separate entity situate in the said revenue estate. The stand was negatived by the Tribunal,

—*vide* judgment dated March 1, 1976 and it was held that the Gurdwara Sahib Guru Granth Sahib was the owner of the property in dispute. Aggrieved thereby, he filed F.A.O. No. 160 of 1976. During the pendency of that appeal, the respondent filed a suit under section 25-A of the Act for possession of the property declared to be belonging to the Sikh Gurdwara which was decreed,—*vide* judgment dated July 24, 1979. To challenge that decree, F.A.O. No. 389 of 1979 was filed. Both these appeals came up for hearing before a Division Bench and one of the arguments raised by the learned counsel for the respondent before the Bench was that the question as to whether the said Dharmshala was a Sikh Gurdwara could not be gone into in view of the provisions of sub-section (2) of section 9 of the Act which provides that publication of a notification under the provisions of sub-section (1) shall be conclusive proof that the Gurdwara is a Sikh Gurdwara. Looking to the importance of the question, the said appeal, F.A.O. No. 160 of 1976 was referred to a Larger Bench and the other appeal ordered to be heard therewith. This is how, we are seized of these matters.

(4) Sub-section (1) of section 9 of the Act provides that if no petition has been presented in accordance with the provisions of section 8 in respect of a gurdwara to which a notification published under the provisions of sub-section (3) of section 7 relates the State Government shall, after the expiration of ninety days from the date of such notification, publish a notification declaring the Gurdwara to be a Sikh Gurdwara. In the present case though the claim petition was filed under section 8 by the appellant but the same having been held to be incompetent was dismissed. Consequently, the State Government published notification Exhibit P-3 (in F.A.O. 389 of 1979) dated July 21, 1978 in the Official Gazette dated July 28, 1978 declaring Gurdwara Sahib Sri Guru Granth Sahib to which notification published under the provisions of sub-section (3) of section 7 related, to be a Sikh Gurdwara. By virtue of the provisions of sub-section (2) of section 9 of the Act, the said notification is conclusive proof that the Gurdwara, the subject-matter of the notification is a Sikh Gurdwara. The list of the property accompanying the application filed under section 7 (3) neither forms part of the notification under section 9(1) nor that notification in any manner determines in whom vests the right, title and interest in the said property. What to talk of the other property, the said notification even does not have the effect of the determination as to in which building a Sikh Gurdwara is situate. What is declared to be a Sikh Gurdwara is an institution

in the abstract form without any reference to any construction of brick and morter. We need not dilate upon this point any further because the same had been settled long back by the Full Bench decision in *Mahant Lachman Das chela Mahant Ishar Dass* v. *The State of Punjab*, (1) authenticity of which was challenged by none of the parties, in the following terms:

> "Fifthly, it is clear from the law settled in Guru Amarjit Singh's case (supra) that no claim to any physical property can be made under section 8. That being so, claims to property can be made under section 5 in one case (in respect of Schedule I Gurdwaras) and under section 10 in the other (Gurdwaras which are neither in Schedule I nor in Schedule II). It is not disputed that in proceedings under section 10, the physical Gurdwara itself can also be claimed. Still a claim under section 10 will be tried by the Tribunal only (i) after a conclusive declaration under section 9(2) regarding the Gurdwara being a Sikh Gurdwara is made if no objection is filed under section 8; or (ii) after such a declaration is made consequent upon the disposal of objections filed under section 8 and only in case the objections are dismissed as section 16(1) of the Act requires that if in any proceedings before a Tribunal it is disputed that a Gurdwara should or should not be declared to be a Sikh Gurdwara, the Tribunal must before enquirying into any other matter in dispute relating to the said Gurdwara decide whether it should or should not be declared a Sikh Gurdwara in accordance with the provisions of subsection (2) of section 16. Thus a claim to the physical Gurdwara itself is admittedly neither inconsistent with nor precluded by a conclusive declaration under section 3(4) or section 9(2) equal to a judgment in rem according to the decision of a Division Bench of the Lahore High Court in (Mahant) Devinder Singh *v.* Shriomani Gurdwara Parbandhak Committee and another (12) of the Gudwara being a Sikh Gurdwara. Same is the position vis-a-vis the extent of claim to property under section 5 consequent on a notification under section 3(2) which is made conclusive by sub-section (4) of section 3. In the absence of clear indication to the contrary, there is no reason to suspect that the scope of any of the two provisions (section 5

(1) I.L.R. (1968)2 Punjab and Haryana 499.

and 10) is in any manner more restricted or extensive than that of the other. This will not be so if "Gurdwara" in section 5(1) is understood to denote the physical Gurdwara of brick and morter."

(5) So far as there is no dispute and the learned counsel for the parties are agreed that in a petition under section 10, the scope of enquiry is limited to the determining of the question as to whether right, title and interest in the property enumerated in the list attached with the notification vests in the Sikh Gurdwara or not and the nature of the institution or validity of the notification declaring the institution a Sikh Gurdwara cannot be gone into. The controversy between the parties is that according to the appellant the property in dispute belongs to Dharamshala Sri Guru Granth Sahib and not to the Sikh Gurdwara to which the notification relates, whereas according to the learned counsel for the respondent, Dharamshala Guru Granth Sahib is nothing but the same institution which has been declared to be a Sikh Gurdwara through notification Exhibit P-3. The argument of the learned counsel for the respondent in a nutshell was that it is not open to this Court in proceedings under section 10 to go into the question as to whether Dharamshala Guru Granth Sahib is a Sikh Gurdwara or not because the notification Exhibit P-3 is conclusive proof by virtue of the provisions of section 9(2) of the Act that it was a Sikh Gurdwara. To show that the Sikh Gurdwara, the subject-matter of Exhibit P-3, is the same institution which is named Dharamshala Guru Granth Sahib and alleged to be an Udasi Dera, the learned counsel relied on the fact that the said Gurudwara is shown to be located in the notification in the same building which is claimed to be the said Dharamshala. The fallacy in the argument is quite obvious. The entries in the notification read as under:

No and date of the Notificotion published u's 7 (3) of the Sikh Gurdwara Act. 1925.	Name of Gurdwara	Revenue Estate	Tehsil	District
1	2	3	4	5
Home Department General Gurdwara Notification No. 1480-G. P,dated 5-7-1963.	Gurdwara Sahib Guru Granth Sahib	Land	Sirhind	Patiala

(6) According to the above noted entries, Gurdwara Sahib Guru Granth Sahib situate in the revenue estate of Landa tehsil Sirhind, district Patiala, was declared to be a Sikh Gurdwara and the notification does not at all show in which building the Gurdwara is situate; nor any such information is required to be mentioned in the notification under section 9(1) of the Act. The learned counsel, however, urged that the Gurdwara declared to be a Sikh Gurdwara is the one mentioned in the notification referred to in column No. 1 and from the perusal of the earlier notification it would be clear that the Sikh Gurdwara is situate in the same building which is claimed to be the Dharamshala. Column No. 1 only contains information regarding the notification published under section 7(3) which enjoins the Government to publish the application made under section 7(1) and the accompanying property list, as envisaged under section 7(2) through a notification. The list of the property as already discussed above does not form part of the notification under section 9(1). The claim with respect to the property is made under section 10 and has nothing to do with the claim under section 8 which relates to the institution alone. So, the entry made in column No. 1 of notification, Exhibit P-3 is no evidence or proof of the fact as to where the institution declared to be a Gurdwara is located or situate. The notification, Exhibit P-3, therefore, could neither be availed of for showing as to where Gurdwara Sahib Guru Granth Sahib is located nor it debars an enquiry under section 10 whether the property in dispute including the building alleged to be the Dharamshala is or is not the property of the said Gurdwara. On the contrary, in the present case, the respondent would be debarred by the provisions of section 9(2) from showing that the Dharamshala Guru Granth Sahib is in fact a Sikh Gurdwara notified in Exhibit P-3 or that the notification relates to the said Dharamshala even though the institution named therein is Gurdwara Sahib Guru Granth Sahib.

(7) It is established beyond doubt from Exhibit P-4 and Exhibit P-6 and also was not disputed by the learned counsel for the respondent that there were two institutions in existence at the time of the notification in the revenue estate of Landa which still continue to be there—one known as Dharamshala Guru Granth Sahib and the other Sri Gurdwara Sahib Sri Guru Granth Sahib. The word "Sri" before the word, "Gurdwara Sahib" and "Guru Granth Sahib" seems to have been added out of reverence and are usually not constituent of the name itself. Shorn of these two words, the second institution bears exactly the same name which finds mention in the notification, Exhibit P-3. On the other hand, from the order of the Revenue

Officer on mutation Exhibit P-1 it is evident that the appellant institution was known only as Dharamshala and the words, "Guru Granth Sahib" were added unauthorisedly in the *jamabandi* which was prepared on the basis of the said order, Exhibit P-1. In the application filed under section 7(1), the Sikh worshippers named the institution claimed to be a Sikh Gurdwara as Gurdwara Sahib Guru Granth Sahib. Those worshippers being residents of the village were presumed to know that there were two distinct institutions, one known by the name mentioned in their application and the other as Dharmshala. It is, therefore, obvious that the claim made by them related to the instiution Gurdwara Sahib Guru Granth Sahib and not the Dharamshala and that it was the former institution which formed the subject-matter of the notification, Exhibit P. 3. The notification being a conclusive proof of the fact that the institution named therein is a Sikh Gurdwara, the respondent would be barred from claiming that, in fact, the institution named in the notification is the Dharamshala and not the Gurdwara Sahib Guru Granth Sahib. If incidently there was only one institution in the revenue estate of Landa, it might have been open to the respondent to claim and prove that the said notification related to that institution. But in the present case when an institution of the name mentioned in the notification does exist in the revenue estate of Landa it would not be open to the respondent to allege and prove that the notification did not relate to that institution and in fact relates to another institution situate in the same revenue estate and known as Dharamshala (wrongly described in the Government record as Dharamshala Guru Granth Sahib). Our view-point would be best elucidated and appreciated with the following example : Suppose that there is no Sikh Gurdwara, in fact, existing in the revenue estate. Somehow, more than fifty worshippers forward a petition to the Government under section 7(1) mentioning therein a Gurdwara of an imaginary name together with a list of the property. In that list they include a house belonging to some resident of the village claiming it to be building of the Gurdwara. The application together with the list of the property is published by the Government under section 7(3) of the Act. Now, there being no Gurdwara, in fact, there would be no hereditary office-holder of that Gurdwara and as such a petition on behalf of the owner of the house would not be competent under section 8. In the absence of any claim filed under section 8, a notification under section 9(1) would *ipso facto* follow declaring the Gurdwara named in the application to be a Sikh Gurdwara. The only remedy available to the owner of the

house would be to file a petition under section 10 of the Act to claim that the said house was his property and not of the Gurdwara. The S. G. P. C. in the trial of that claim petition under section 10 would not be able to plead that the Sikh Gurdwara having been shown to be situated in the said house in the list of property attached with the notification under section 7(3), it was not open to the Tribunal to entertain the claim of the owner of the house under section 10 that the house including the room ear-marked for the recitation of Guru Granth Sahib is not the property of the Gurdwara. On the contrary, if the S. G. P. C. fails to claim successfully any building in which a Sikh Gurdwara is alleged to be situated, a notification issued under section 9(1) may have to be withdrawn on the analogy of the provisions of section 4 which provides that if in respect of any Gurdwara specified in schedule 1 no list has been forwarded under the provisions of sub-section (1) of section 3 the State Government shall, after the expiry of ninety days from the commencement of this Act, or in the case of the extended territories, after the expiry of one hundred and eightly days from the commencement of the amending Act, as the case may be, declare by notification that such Gurdwara shall be deemed to be excluded from specification in Schedule I. Furthermore if the proposition advocated by the learned counsel for the respondent is accepted then the true owner of the house being not hereditary office-holder would not be competent to file claim under section 8 and the notification under section 9(1) containing reference to the publication of the application and the list of property under section 7(3) being conclusive would be left with no remedy and deprived of this property on mere allegations by fifty or more worshippers. The interpretation which leads to such an anomaly can by no stretch of reasoning be put on the provisions of section 9(1) and (2) of the Act. We are, therefore, of the considered view that nothing contained in section 9(2) debars this court in proceeding under section 10 of the Act from enquiring into as to whether the institution named in the notification, Exhibit P-3, is situate in the building claimed to be Dharamshala by the appellant and whether the property, the subject-matter of this petition belongs to the said institution or not. The contention of the learned counsel for the respondent, therefore, has no merit and is accordingly overruled.

(8) Yet another legal objection to the maintainability of a petition under section 10 by Mahant Lachhman Dass was raised by the learned counsel for the respondent. He argued that the learned counsel for the appellant having conceded that the property

in dispute was being claimed as belonging to the Dharamshala no petition would be competent on its behalf by the trustee under section 10 because only a personal claim of a person to the property can be filed under that section. Reliance for this proposition was placed on the following passage of a Division Bench of the Lahore High Court in *Lal Chand Mehra and another* v. *Local Committee of Management. Gurdwaras, Amritsar,* (2):—

> "Apart from that, we are clear that such a claim does not lie under section 10, Sikh Gurdwaras Act. A claim under that section must be a personal claim and not a claim by a trustee. It has already been shown that the property was dedicated to the dharamsala and it was ordered that it should be entered in the name of the dharamsala. It is, therefore, the property of the dharamsala. Provision is made for trustees in section 27 of the Act. Once there has been a notification declaring a Gurdwara to be a Sikh Gurdwara, the trustees come in under the provisions of section 27, Sikh Gurdwaras Act, and can claim an order as to who should administer the trust. As the trust is entirely in favour of the dharamsala with respect to the 71 kanals, 18 marlas of land, it would seem to follow under the provisions of section 27(2) of the Act that the Tribunal would have to order that the Committee of the Gurdwara should manage the property but this question does not arise at the present time."

(9) With due deference to the learned Judges of the Division Bench, we find ourselves unable to subscribe to this proposition of law. The claim petition under section 10 can be filed by any person. There is hardly any scope for a doubt that the word, "person" whenever used in the statute includes the juristic person as well. Consequently, the petition under section 10 would be competent on behalf of a juristic person as well apart from human beings. We need not dilate on this matter at some length because it stands concluded by the earlier Full Bench in *Mahant Lachman Das's case* (supra) in which the rule laid down in *Davinder Singh* v. *Shromani Gurdwara Parkandhak Committee and another* (3), was cited with approval. In *Davinder Singh's case* (supra) Mahant Davinder Singh filed a claim

(2) A.I.R. 1937 Lahore 106.
(3) A.I.R. 1929 Lahore 603.

under section 5 claiming properties belonging to the Samadh and Dharamsala Bhai Prem Sati. The said properties had been included in the consolidated list forwarded by the S.G.P.C., claiming them to be the properties of the notified Sikh Gurdwara. The contentions similar to those raised by the learned counsel for the respondent were rejected in the following terms:—

> "The answer to the first portion is, I think, that so far as the the notification under section 5 deals with claims to Gurdwara it is meaningless inasmuch as there can be no such claim. The test is not whether a man admits that there is a Gurdwara or not but whether he claims the Gurdwara as such, e.g., supposing there be a dispute between two sets or branches of Sikhs they cannot put in rival claims to the Gurdwara as a Sikh Gurdwara. Any body may put in a claim provided be avoids describing it as a claim to a Gurdwara. He may claim in other words, that what the S.G.P.C., or any other religious body declares to be a Sikh Gurdwara, forms part of his private property or a part of the endowment of any institution. This is the view clearly taken by the officials responsible for the notification when they excluded 'H'."

(10) The rule laid down in *Lal Chand Mehra's case* (supra), therefore, is disapproved and it is held that a petition under section 10 is competent by a juristic person through its manager.

(11) On the question of the ownership of the property in dispute, hardly any argument was raised by the learned counsel for the respondent. From the copies of the revenue record, Exhibits P-1, P-2 and P-3, it is proved beyond any shadow of doubt that the property in dispute belongs to the appellant Dharamshala. Copies of the *jamabandis*, Exhibits P-4, P-5 and P-6 further go to show that Gurdwara Sahib Guru Granth Sahib is a different institution and the properties described therein belong to that institution. That apart, the respondent claimed properties in dispute to be the properties of the Sikh Gurdwara only on the ground that Dharamshala Guru Granth Sahib was in fact the same institution which was notified in Exhbit P-3 and once that contention is turned down, its claim falls to the ground and has to be negatived.

For the reasons recorded above, these appeals are allowed, the judgment of the Tribunal reversed and the Dharamshala—appellant is declared to be the owner of the properties in dispute.

Surinder Singh, J.—

(12) Two connected Appeals, namely, F.A.O. No. 160 of 1976 and F.A.O. No. 389 of 1979 have been referred to this Bench, after being heard by a Division Bench, to which I was a party. The facts culminating with these Appeals have been mentioned in the judgment rendered by my learned brother S. P. Goyal, J., with which brother D. S. Tewatia, J., has concurred. With due respect to the assessment of the matter made by my learned brothers aforesaid, I have to strike a discordant note. My reasons for the same are these.

(13) As observed by S. P. Goyal, J., there is no dispute with the proposition that the word 'Gurdwara' as used in secton 3(1) and section 5(1) of the Sikh Gurdwaras Act, 1925 (hereinafter referred to as 'the Act'), refers to the Institution but not in the physical sense if tangible property called the Gurdwara. This view has been expressed by the Full Bench in *Mahant Lachman Dass Chela Mahant Isher Dass* v. *The State of Punjab and others* (supra), with which there is no quarrel. My learned brother has also extracted one of the reasons recorded by the Full Bench for coming to the above conclusion. To my mind, however, the controversy in the present case centres round a different point, namely, in regard to the identity of the institution regarding which the Notification, dated July 21, 1978 (Exhibit P-3) was published in the Official Gazette, dated July 28, 1978, (in F.A.O. No. 389 of 1979). As per this Notification, the Institution known as "Gurdwara Sahib Sri Guru Granth Sahib" to which the earlier Notification under section 7(3) related, was declared to be a Sikh Gurdwara. According to the appellant, the property referred to in the Notification belongs to the Dharamshala and not to the Sikh Gurdwara. As against this, the contention on behalf of the respontent-Shiromani Gurdwara Parbandak Committee is that in proceedings under section 10 of the Act, it is not open to the appellant to urge or for the Court to go into the question as to whether the Institution regarding which the Notification was made, was a Sikh Gurdwara or a Dharamshala. My learned brother has observed that if incidently there was only one Institution in the Revenue Estate of Landa, it might have been open to the respondent to claim and prove that the said Notification related to that Institution, but in the present case there was another Institution with a somewhat similar name in the same Revenue Estate and hence it would be open to the appellant to prove that the Notification does not relate to the Institution to which the claim is made by the respondent in the present

case. My learned brother has considered the analogy of a case where there is no Sikh Gurdwara in the Estate in question, but with due respect to him, this analogy cannot resolve the controversy aforesaid.

(14) For a better understanding of the legislative intent, it would be appropriate to notice the Scheme of the Act, Section 7 envisages the filing of a petition by fifty or more Sikh worshippers of a Gurdwara for having the same declared as a Sikh Gurdwara. The various formalities for the filing of such an application have been mentioned therein. Under section 7(3), the State Government is called upon to publish the said petition in the Official Gazette along with the list of property which is claimed for the Gurdwara. Sub-section (5) thereof provides that the publication of a Uotification under the provisions of sub-section (3) shall be conclusive proof of due compliance with the various provisions of the section. Then comes section 8 of the Act, under which, after the publication of the Notification referred to above, a hereditary office-holder may forward to the State Government, a petition claiming that the Gurdwara is not a Sikh Gurdwara and in that petition he may make a further claim that he may be restored to the hereditary office. With section 9 of the Act, we come near home with the controversy in the present case. The said section lays down that if no petition has been presented in accordance with the provisions of section 8 to which a Notification published under section 7(3) relates, the State Government shall after the expiration of ninety days from the date of such Notification, publish a Notification declaring the Gurdwara to be a Sikh Gurdwara. Sub-section (2) of section 9 further lays down that the publication of a Notification under the provisions of sub-section (1) shall be conclusive proof that the Gurdwara is a Sikh Gurdwara. Under the subsequent provision, i.e., section 10, any person may forward to the State Government within ninety days from the date of the publication of the Notification under section 7(3), a petition claiming right, title or interest in any *property included in the list so published* (emphasis mine). It is in the light of these statutory provisions that it has to be judged if there is any genuine controversy as regards the identity of the Institution which the respondent had claimed to be a Sikh Gurdwara and in regard to which the Notifications under sections 7(3) and 9(1) had been published.

(15) My learned brothers have come to a conclusion that the property in dispute belongs to the appellant-Dharamshala and that the Institution 'Gurdwara Sahib Guru Granth Sahib' is, in fact, the owner of the properties mentioned in the copies of the Jamabandis

Exhibits P4, P5 and P6 and not of the property in dispute. The incorrectness of this finding would be apparent from the following facts available on the record. As already noticed, the original claim in regard to the Gurdwara in the present case was made by means of a petition filed by the worshippers, which was published in the State Government Notification No. 1480 G.P., dated July 5, 1963, under the provisions of section 7(3) of the Act. A list of the properties giving complete details thereof was also annexed with the petition and this list formed a part of the aforesaid Notification. It is apparent from a perusal of the Notification that land measuring 85 Kanals 11 Marlas comprising various Khasra Numbers was claimed as the property of the Sikh Gurdwara described as 'Gurdwara Sahib Guru Granth Sahib'. At this stage it is relevant to mention that after the publication of the Notification under section 7(3), the appellant submitted two petitions to the State Government, one under section 8 and the other under section 10 of the Act, which were duly forwarded to the Tribunal for adjudication. The petition under section 8 was dismissed by the Tribunal,—*vide* its order, dated January 6, 1972 with a finding that the appellant being not a hereditary office-holder of the Institution, had no *locus standi* to present any claim under section 8. The decision of the Tribunal was affirmed by the Full Bench of this Court in F.A.O. No. 137 of 1972, decided on July 31, 1975. It is nobody's case that the matter was taken further to the Supreme Court. That being so, the dismissal of the petition under section 8 became final. The dismissal being on the ground that the appellant had no *locuc standi*, would mean that no petition had, in fact, been preented in the eye of law. As a result thereof, the necessary Notification under sction 9 of the Act was published declaring the Institution to be a Sikh Gurdwara. As already noticed, by virtue of the provisions of sub-section (2) of section 9, the publication of such a Notification is conclusive proof that the Gurdwara regarding which the Notification has been made, is a Sikh Gurdwara and this matter cannot be re-agitated even in a different form.

(16) My learned brothers have considered the question of the identity of the Institution regarding which the two Notifications i.e., the first one under section 7(3) and the second under section 9(1) of the Act were made. There is no gainsaying that there are two different Institutions in Village Lands, one known as 'Gurdwara Guru Granth Sahib' and the other called 'Dharamshala Sri Guru Granth Sahib', of which the appellant is the Mahant. The Revenue Entries also undisputably indicate that the land attached with the first-mentioned Institution comprises of Khasra Nos. 439, 441, 443, 447 and

635, the total measurement of these six Khasra Numbers being 7 Bighas and 7 Biswas. On the other hand, as already noticed, the land attached to the second Institution comprising various Khasra Numbers measures 85 Bighas 11 Biswas. If the respondents had made claim to the Institution which was entered in the Revenue Records to be the owner of the six Khasra Numbers mentioned above, the list of property incorporated in the Notification under section 7(3) would have included these Khasra Numbers. The very fact that these Khasra Numbers were not even claimed to be the property of the Institution goes toshow that the Institution which was desired to be declared a Sikh Gurdwara was the one, which according to Revenue Records owns the land measuring 85 Bighas 11 Biswas. Furthermore, the possession of the said land has been described in the Revenue Record, i.e., Jamabandi for the year 1958-59 A.D. to be that of the Gurdwara Committee through the appellant as Mohatmim. Another significant fact in regard to the identity of the Institution in dispute is that in the Notification, dated July 5, 1963 the boundaries of the land in dispute have been described and these are different from the boundaries of the other Gurdwara in the village. Rather, this fact has been admitted by the appellant himself and his witnesses. It is, therefore, obvious that the Notifications in question related to the Institution with which the land in dispute is associated and not to the other Institution which is also a Sikh Gurdwara in regard to the property of which there has never been any dispute between the parties.

(17) Another consideration which seems to have weighed with my learned brother is that the Institution in dispute is known as 'Dharamshala Guru Granth Sahib', whereas in the Notification the Institution is described as 'Gurdwara Sahib Guru Granth Sahib'. An inference has, therefore, been drawn that the claim made by the respondent did not relate to the Dharamshala, but to another Institution in the village. Here again, I respectfully differ. There is no dearth of authority on the point that the words 'Gurdwara' and 'Dharamshala' are inter-changeable. It was held in *Mahant Niranjan Dass* v. *The Shiromani Gurdwaras Parbandhak Committee, Amritsar* (4) decided by a Division Bench (to which my learned brother S. P. Goyal, J. was a party) as follows:—

> "The contention that in one of the documents reference to which has earlier been made, the institution has been described as Dharamsala, therefore, it cannot be a Gurdwara

(4) F.A.O. 85 of 1966 decided on 17th August, 1978.

is again without any merit. The word, 'Dharamsala' or 'Gurdwara' is not a decisive factor to determine the nature and purpose of establishment of the institution. The said words are interchangeable and have to be interpreted in the light of the other evidence led in the case."

On this point, Mr. Narinder Singh, learned counsel for the respondent-Committee made a reference to an authenticated Book entitled 'Mahan Kosh' Volume II, page 1245 by Bhai Kahan Singh of Nabha. The author while dilating on the meaning of the word 'Gurdwara said that from the time of Guru Nanak up to the time of Guru Arjan Dev, the Fifth Guru, the name of such Institutions was given as Dharamsalas but after the Sixth Guru, i.e., Guru Har Gobind, these Institutions were commonly known as Gurdwaras.

(18) The learned counsel for the respondent had rightly raised another legal objection to the maintainability of the petition under section 10 by the appellant. The contention is that an averment has been made in the said petition to the effect that the property in dispute belongs to the Dera of Udasi Sadhus. The appellant had, however, claimed the said property in his personal capacity as indicated in the prayer clause, though there is a contradiction in this behalf as the words used are 'be declared as the property not belonging to any Sikh Gurdwara but as the property of the petitioner and of the Dera Udasian'. The appellant has signed the petition in his personal capacity and not on behalf of any Institution as a Mohatimim. It is submitted that section 10 of the Act postulates only a personal claim to the property. Reliance in this behalf has been placed on the observations made in *Lal Chand Mehra and another* v. *Local Committee of Management, Gurdwaras Amritsar* (5). The contention that only a personal claim can be made under section 10, has been repelled by my learned brothers, who have held that even a juristic person can file such a claim. I agree with this view. However, the objection in regard to the maintainability of the petition still subsists because at no stage was a claim made by any Institution like a Dera or a Dharamshala. On the other hand, the appellant while appearing as P.W. 4, stated that the land belonged to him, though it is in the name of the Dharamshala. This being so, no declaration could be made in favour of the Dharamshala, as proposed by my learned brothers.

(5) A.I.R. 1937 Lahore 106.

(19) For the reasons discussed above, both the appeals shall stand dismissed, but with no order as to costs.

(20) In view of the majority judgment, these two appeals (F.A.O. No. 160 of 1976 and F.A.O. No. 389 of 1979) are allowed and the judgment of the Tribunal reversed and the Dharamshala is declared to be the owner of the properties in dispute.

D. S. Tewatia, J.
Subject to my dissenting judgment.
Surinder Singh, J.
S. P. Goyal, J.

N.K.S.

FULL BENCH

Before : P. C. Jain, CJ, S. P. Goyal, S. S. Kang, G. C. Mital and I. S. Tiwana, JJ.

STATE OF HARYANA AND OTHERS,—*Appellants*

versus

VINOD KUMAR AND OTHERS,—*Respondents*

Regular Second Appeal No. 2930 *of* 1980

October 14, 1985.

Punjab Security of Land Tenures Act (X *of* 1953)—*Sections* 2(3), 5-*B and* 25—*Punjab Security of Land Tenures Rules*, 1956—*Rule* 6—*Haryana Ceilings on Land Holdings Act* (XXVI *of* 1972)—*Section* 26—*Collector declaring surplus area without hearing the concerned land owners—Such an order—Whether a nullity—Effective parties who have not been heard by a Tribunal—Whether bound by its order—Remedies open to them—Suit challenging the validity of such an order—Whether maintainable in view of Section* 25 *of the Punjab Act.*

Held, that there are two types of judgments/orders, namely, judgments *in rem* and judgments *in personum*. The former binds the whole world whereas the later binds only the parties. The judgments/orders in rem are the one passed by the authorities or the Courts exercising jurisdiction such as insolvency, admiral and