PETITIONER:
SHRIOMANI GURUDWARA PRABANDHAK COMMITTEE, AMRITSAR

Vs.

RESPONDENT:
SHRI SOM NATH DASS & ORS.

DATE OF JUDGMENT: 29/03/2000

BENCH:
A.P.Misra, M.Jagannadha Rao

JUDGMENT:

MISRA, J.

The question raised in this appeal is of far reaching consequences and is of great significance to one of the major religious followers of this country. The question is: whether the Guru Granth Sahib could be treated as a juristic person or not? If it is, then it can hold and use the gifted properties given to it by its followers out of their love, in charity. This is by creation of an endowment like others for public good, for enhancing the religious fervour, including feeding the poor etc.. Sikhism grew because of the vibrating divinity of Guru Nanakji and the 10 succeeding gurus, and the wealth of all their teachings is contained in Guru Granth Sahib. The last of the living guru was Guru Gobind Singhji who recorded the sanctity of Guru Granth Sahib and gave it the recognition of a living Guru. Thereafter, it remained not only a sacred book but is reckoned as a living guru. The deep faith of every earnest follower, when his pure conscience meets the divine under-current emanating from their Guru, produces a feeling of sacrifice and surrender and impels him to part with or gift out his wealth to any charity may be for gurdwaras, dharamshalas etc.. Such parting spiritualises such follower for his spiritual upliftment, peace, tranquility and enlightens him with resultant love and universalism. Such donors in the past, raised number of Gurdwaras. They gave their wealth in trust for its management to the trustees to subserve their desire. They expected trustees to faithfully implement the objectives for which the wealth was entrusted. When selfishness invades any trustee, the core of trust starts leaking out. To stop such leakage, legislature and courts step in. This is what was happening in the absence of any organised management of Gurudwaras, when trustees were either mismanaging or attempting to usurp such trusts. The Sikh Gurdwaras and Shrines Act 1922 (VI of 1922) was enacted to meet the situation. It seems, even this failed to satisfy the aspirations of the Sikhs. The main reason being that it did not establish any permanent committee of management for Sikh gurdwaras and did not provide for the speedy confirmation by judicial sanction of changes already introduced by the reforming party in the management of places of worship. This was replaced by the Sikh Gurdwaras Act, 1925 (Punjab Act No. 8 of 1925) under which the present case arises. This Act provided a legal procedure

through which gurdwaras and shrines regarded by Sikhs as essential places of Sikh worship to be effectively and permanently brought under Sikh control and management, so as to make it consistent with the religious followings of this community.

About 56 persons of villages Bilaspur, Ghodani, Dhamot, Lapran and Buani situated in the Village Bilaspur, District Patiala moved petition under Section 7(1) of the said Act for declartion that the disputed property is a Sikh Gurdwara. The State Government through Notification No. 1702 G.P. dated 14th September, 1962 published the aforesaid petition in the Gazette including the boundaries of the said gurdwaras which were to be declared as Sikh Gurdwaras. Thereafter, a composite petition under Sections 8 and 10 of the said Act was filed by Som Dass son of Bhagat Ram, Sant Ram son of Narain Dass and Anant Ram son of Sham Dass of Village Bilaspur, District Patiala, challenging the same. They claimed it to be a dharamshala and Dera of Udasian being owned and managed by the petitioners and their predecessors since the time of their forefathers and that they being the holders of the same, received the said Dera in succession, in accordance with their ancestral share. They also claimed to be in possession of the land attached to the said Dera. They denied it to be a Sikh Gurdwara. This petition was forwarded by the Government to the Sikh Gurdwara Tribunal, hereinafter referred to as the Tribunal. In reply to the notice, the Shiromani Gurdwara Parbandhak Committee, hereinafter referred to as the SGPC (appellant), claimed it to be a Sikh Gurdwara, having been established by the Sikhs for their worship, wherein Guru Granth Sahib was the only object of worship and it was the sole owner of the gurdwara property. It denied this institution to be an Udasi Dera. However, appellant Committee challenged the locus standi of the respondent to file this objection to the notification. The appellants case was under Section 8 and objection could only be filed by any hereditary office-holders or by 20 or more worshippers of the gurdwara, which they were not. The Tribunal held that the petitioners before it (respondents here), admitted in their cross- examination that the disputed premises was being used by them as their residential house that there was no object of worship in the premises, neither they were performing any public worship nor they were managing it. So it held they were not hereditary office holders, as they neither managed it nor performed any public worship. Thus, their petition under Section 8 was rejected on 9th February, 1965 by holding that they have no locus standi. Aggrieved by this they filed first appeal being FAO No. 40 of 1965 which was also dismissed by the High Court on 24th March, 1976, which became final. Thereafter, the Tribunal took the petition under Section 10 in which the stand of SGPC was that the land and the buildings were the properties of Gurdwara Sahib Dharamshala Guru Granth Sahib at Bilaspur. The respondents and their predecessors along with their family members had all along been its managers and they had no personal rights in it. The Tribunal framed two issues:

(1) What right, title or interest have the petitioners in the property in dispute?

(2) What right, title or interest has the notified

Sikh Gurdwara in the property in dispute.

The Tribunal decided both issue No. 1 and issue No. 2 in favour of present appellants and held that the disputed property belonged to the SGPC. Thus respondents petition under Section 10 was also rejected on 4th September 1978. Tribunals conclusion is reproduced hereinbelow:

The above discussion shows that the respondent-Committee has been successful in bringing its case rightly in Clauses 18 (1)(a) and 18(1)(d) of the Act and has been successful in discharging its onus as regards issue no. 2 and the issue is, iala is the owner of the property in dispute consisting of Gurdwara building, the pla

of which is given in the Notification No. 1702 G.P. dated 14.9.68 at page 2527 and the agricultural land measuring 115 Bighas 12 Biswas the detail of which are given in the copy of Jamabandi for the year 1955-56 A.D. attached to the above-said Notification at page 2529 and is comprised of Khasra Nos. 456 min, 457, 451, 644 and 452 bearing Khawat No. 276 Khatauni nos. 524 to 527.

Aggrieved by this, respondents filed first appeal being FAO No. 449 of 1978. During its pendency, the SGPC on the basis of final order passed by the High Court in FAO No. 40 of 1965 against the order of the Tribunal rejecting Section 8 application, filed suit No. 94 of 1979 against the respondents under Section 25-A of the Act for the possession of the building and the land. The respondents contested the suit by raising objection about mis-description of the property in the plaint and also raising an is

e about jurisdiction since the income from the gurdwara was more than Rs. 3,000/- per annum for which a committee was to be constituted before any suit could be filed. On contest, the said suit of SGPC was decreed and respondents objections were rejected, against which the respondents filed FAO No. 2 of 1980. The High Court vide its order dated 11th February, 1980 directed this FAO No. 2 of 1980 to be listed for hearing along with FAO No. 449 of 1978. It is also relevant to refer to, which was also stated by the respondents in their petition before the Tribunal, that a notification under Section 9 of the Act was published declaring the disputed gurdwara to be a Sikh Gurdwara.

It is necessary to give some more facts to appreciate the contentions raised by the respective parties. In jamabandi Ex. P-1 of 1961-62 BK, (which would be 1904 AD) Mangal Dass and Sunder Dass, Bhagat Ram sons of Gopi Ram Faqir Udasi were mentioned as owners in possession of the land. They had also mortgaged part of this land to some other persons. This village Bilaspur where the disputed gurdwara exists formed part of the erstwhile Patiala Estate. The then ruler of the Patiala Estate issued Farman-

Shahi dated 18th April, 1921. Its contents are quoted hereunder:

In future, instructions be issued that so long the appointment of a Mahant is not approved by Ijlas-I-khas through Deori Mulla, until the time, the Mahant is entitled to receive turban, shawl or Bandhan or Muafi etc. from the

Government, no property or Muafi shall be entered in his name in the revenue papers.

It should also be mentioned that the land which pertains to any Dera should not be considered as the property of any Mahant, nor the same should be shown in the revenue papaers as the prope

y of the Mahant, but these should be entered as belonging to the Dera under the management of the Mahant and that the Mahants shall not be entitled to sell or mortgage the land of the Dera. Revenue Department be also informed about it and the order be gazetted.

On Maghar 10, 1985 BK (1920 AD) at the insta

e of Rulia Singh and others the patwari made a report in compliance with the aforesaid Farman-e- Shahi for the change of the entries in favour of Guru Granth Sahib Barajman Dharamshala Deh. This was based on the enquiry and evidence produced before him. In this mutation proceeding which led to the mutation viz., Ex. P8, Narain Dass, Bhagat Ram and Atma Ram Sadh appeared before the Revenue Officer and stated that their ancestors got this land which was gift

in charity (Punnarth) by the then proprietors of the village. This land was given to the ancestors of the respondent for the purpose that they should provide food and comfort to the travellers passing through this village. In the same proceeding Kapur Singh, Inder Singh Lambardars and other right- holders of the said village also stated that their fore-fathers had given this land in the name of Guru Granth Sahib Barajman Dharamshala Deh under the charge of these persons for providing food and comfort to the travellers. But Atma Ram and otherietors of the village. This land was given to the ancestors of the respondent for the purpose that they should provide food and comfort to the travellers passing through this village. In the same proceeding Kapur Singh, Inder Singh Lambardars and other right-holders of the said village also stated that their fore-fathers had given this land in the name of Guru Granth Sahib Barajman Dharamshala Deh under the charge of these persons for providing food and comfort to the travellers. But Atma Ram and others, ancestors of respondents were not performing their duties. This default was for a purpose, which is revealed through the last settlement that they got this land entered in their personal names, in the revenue records against which a matter was pending before Deori Mualla in the mutation proceedings. Based on the evidence, the Revenue Officer after enquiry recorded the finding that Atma Ram and others admitted that this land had been given to them without any compensation for providing food and shelter to the travellers which they were not performing. He further held that Atma Ram and others could not controvert the aforesaid assertion made by the villagers. So, based on this enquiry and evidence on record, he ordered the mutation, in the name of Guru Granth Sahib Barajman Dharamshala Deh by deleting the name of Atma Ram and others from the column of ownership of the land. He further observed, so far as the question of appoinment of Manager or Mohatmim was concerned that it was to be decided by the Deori Mualla as the case about this was pending before the Deori Mualla. Similarly, in the other mutation No,. 693 which is Ex. 9 in 27th Maghar 1983 (1926 AD) also, mutation

was ordered by removal of the name of Narain Dass, Bhagat Ram sons of Gopi Ram in favour of Guru Granth Sahib Barajman Dharamshala Deh. Since that date till the filing of the petitions by the respondents under Sections 8 and 10 of the Act entries in the ownership column of the land continued in the name of "Guru Granth Sahib Barajman Dharamshala Deh and no objection was filed either by the ancestors of respondents or respondents themselves.

It was for the first time objection was raised by respondents through their counsel before the High Court in FAO No. 449 of 1978 regarding validity of Ex. P 8-9 contending that the entry in the revenue records in the name of Guru Granth Sahib was void as Guru Granth Sahib was not a juristic person. The case of the respondents was that the Guru Granth Sahib was only a sacred book of the Sikhs and it would not fall within the scope of the word, juristic person. On the other hand, with vehemence and force learned counsel for the appellant, SGPC submits that Guru Granth Sahib is a juristic person and hence it can hold property, can sue and be sued. On this question, whether Guru Granth Sahib is a juristic person, a difference arose between the two learned judges of the Bench of the High Court. Mr. Justice Tiwana held, it to be a juristic person and dismissed both the FAOs, namely, FAO No. 449 of 1978 and 2 of 1980 upholding the judgment of the Tribunal. On the other hand Mr. Justice Punchhi, (as he then was) recorded dissent and held, the Guru Granth Sahib not to be a juristic person, but did not decide the issue on merits. The case was then referred to a third judge, namely, Mr. Justice Tiwatia who agreed with the view of Mr. Justice Punchhi and held the Guru Granth Sahib not to be a juristic person. After recording this finding the learned judge directed that the FAO may be placed before the Division Bench for final disposal of the appeal on merits.

The question, whether Guru Granth Sahib is a juristic person is the main point which is argued in the present appeal to which we are called upon to adjudicate. It is relevant to mention here that after adjudication of the question whether the Guru Granth Sahib is a juristic person, the matter again went back to the same Bench which again gave rise to another conflict between Justice Tiwana and Mr. Justice Punchhi. Justice Tiwana held on merits that mutations were valid and respondents had no right to this property. But Mr. Justice Punchhi held to the contrary that the mutation was invalid and this property was the private property of the respondents. Thereafter, the said FAO No. 449 of 1978 and FAO No. 2 of 1980 were placed before the third judge, namely, Justice J.B.Gupta, who concurred with the view taken by Mr. Justice Punchhi, as he then was. He recorded the following conclusion:

in view of the findings that Guru Granth Sahib is not a juristic person, and that the notification issued under section 9 was not conclusive, in view of the Full Bench Judgment of this Court in Mahant Lachhman Dass Chela Mahant Moti Rams case (supra), the findings of the Tribunal are liable to be set aside. The Tribunal mainly based its findings on the mutations, Exhibits P.8 and P.9, which are in the name of Guru Granth Sahib, since Guru Granth Sahib is not a juristic person, any mutation a sanctioned in its name in the present case was of no consequence. There is no other cogent evidence except the said mutations relied upon by the Tribunal in that behalf. Similar was the position as

regards the building. In that behalf, the Tribunal relied upon the notification issued earlier. The same being not conclusive, there was not other reliable evidence to conclude that the building formed part of the Sikh Gurdwara, notified under Section. In these circumstances, I concur with the view taken by M.M.Punchhi, J. in the order dated December 16, 1986.

The foundation of his decision on merits is based on the finding that Guru Granth Sahib is not a juristic person and hence Exs. P8 and P9, the mutations in its name were not sustainable. The present appellants preferred Special Leave Petition No. 7803 of 1988 in this Court, which was dismissed in default on 16th November, 1995 and its restoration application was also dismissed on 19th August, 1996. In this petition it was specifically stated that the present Civil Appeal No. 3968 of 1987 is pending in this Court. However, it is significant as we have said above, the judgment of Mr. Justice Gupta concurring the judgment of Mr. Justice Punchhi, as he then was, was mainly on the basis that the mutation in the name in favour of Guru Granth Sahib Barajman Dharamshala Deh was void in as much as Guru Granth Sahib was not a juristic person. Thus the foundation of that decision rests on the question which we are considering.

The crux of the litigation now rests on the question, whether Guru Granth Sahib is a juristic person or not. Now, we proceed to consider this issue.

The very words Juristic Person connote recognition of an entity to be in law a person which otherwise it is not. In other words, it is not an individual natural person but an artificially created person which is to be recognised to be in law as such. When a person is ordinarily understood to be a natural person, it only means a human person. Essentially, every human person is a person. If we trace the history of a Person in the various countries we find surprisingly it has projected differently at different times. In some countries even human beings were not treated to be as persons in law. Under the Roman Law a Slave was not a person. He had no right to a family. He was treated like an animal or chattel. In French Colonies also, before slavery was abolished, the slaves were not treated to be legal persons. They were later given recognition as legal persons only through a statute. Similarly, in the U.S. the African-Americans had no legal rights though they were not treated as chattel.

In Roscoe Pounds Jurisprudence Part IV, 1959 Ed. at pages 192-193, it is stated as follows:-

In civilized lands even in the modern world it has happened that all human beings were not legal persons. In Roman law down to the constitution of Antoninus Pius the slave was not a person. He enjoyed neither rights of family nor rights of patrimony. He was a thing, and as such, like animals, could be the object of rights of property..In the French colonies, before slavery was there abolished, slaves were put in the class of legal persons by the statute of April 23, 1833 and obtained a somewhat extended juridical capacity by a statute of 1845. In the United States down to the Civil War, the free negroes in many of the states were free human beings with no legal rights.

With the development of society, where an individuals interaction fell short, to upsurge social developments, cooperation of a larger circle of individuals was necessitated. Thus, institutions like corporations and companies were created, to help the society in achieving the desired result. The very constitution of State, municipal corporation, company etc. are all creations of the law and these Juristic Persons arose out of necessities in the human development. In other words, they were dressed in a cloak to be recognised in law to be a legal unit.

Corpus Juris Secundum, Vol. LXV, page 40 says:

Natural person. A natural person is a human being; a man, woman, or child, as opposed to a corporation, which has a certain personality impressed on it by law and is called an artificial person. In the C.J.S. definition Person it is stated that the word person, in its primary sense, means natural person, but that the generally accepted meaning of the word as used in law includes natural persons and artificial, conventional, or juristic persons.

Corpus Juris Secundum, Vol. VI, page 778 says:

Artificial persons. Such as are created and devised by human laws for the purposes of society and government, which are called corporations or bodies politic.

Salmond on Jurisprudence, 12th Edn., 305 says:

A legal person is any subject-matter other than a human being to which the law attributes personality. This extension, for good and sufficient reasons, of the conception of personality beyond the class of human beings is one of the most noteworthy feats of the legal imagination.

Legal persons, being the arbitrary creations of the law, may be of as many kinds as the law pleases. Those which are actually recognised by our own system, however, are of comparatively few types. Corporations are undoubtedly legal persons, and the better view is that registered trade unions and friendly societies are also legal persons though not verbally regarded as corporations..If, however, we take account of other systems than our own, we find that the conception of legal personality is not so limited in its application, and that there are several distinct varieties, of which three may be selected for special mention.

1. The first class of legal persons consists of corporations, as already defined, namely, those which are constituted by the personification of groups or series of individuals. The dividuals who thus form the corpus of the legal person are termed its members

2. The second class is that in which the corpus, or object selected for personification, is not a group or series of persons, but an institution. The law may, if it pleases, regard a church or a hospital, or a university, or a library, as a person. That is to say, it may attribute personality, not to any group of persons connected with the institution, but to the institution itself.

3. The third kind of legal person is that in which the corpus is some fund or estate devoted to special uses a charitable fund, for example or a trust estate.

Jurisprudence by Paton, 3rd Edn., page 349 and 350 says:

It has already been asserted that legal personality is an artificial creation of the law. Legal persons are all entities capable of being right-and-duty- bearing units-all entities recognised by the law as capable of being parties to a legal relationship. Salmond said: So far as legal theory is concerned, a person is any being whom the law regards as capable of rights and duties.

Legal personality may be granted to entities other than individual human beings, e.g. a group of human beings, a fund, an idol. Twenty men may form a corporation which may sue and be sued in the corporate name. An idol may be regarded as a legal persona in itself, or a particular fund may be incorporated. It is clear that neither the idol nor the fund can carry out the activities incidental to litigation or other activities incidental to the carrying on of legal relationships, e.g., the signing of a contract; and, of necessity, the law recognises certain human agents as representatives of the idol or of the fund. The acts of such agents, however (within limits set by the law and when they are acting as such), are imputed to the legal persona of the idol and are not the juristic acts of the human agents themselves. This is no mere academic distinction, for it is the legal persona of the idol that is bound to the legal relationships created, not that of the agent. Legal personality then refers to the particular device by which the law creates or recognizes units to which it ascribes certain powers and capacities.

Analytical and Historical Jurisprudence, 3rd Edn. At page 357 describes

person:

We may, therefore, define a person for the purpose of jurisprudence as any entity (not necessarily a human being) to which rights or duties may be attributed.

Thus, it is well settled and confirmed by the authorities on jurisprudence and courts of various countries that for a bigger thrust of socio-political-scientific development evolution of a fictional personality to be a juristic person became inevitable. This may be any entity, living, inanimate, objects or things. It may be a religious

institution or any such useful unit which may impel the courts to recognise it. This recognition is for subserving the needs and faith of the society. A juristic person, like any other natural person is in law also conferred with rights and obligations and is dealt with in accordance with law. In other words, the entity acts like a natural person but only through a designated person, whose acts are processed within the ambit of law. When an idol was recognised as a juristic person, it was known it could not act by itself. As in the case of minor a guardian is appointed, so in the case of idol, a Shebait or manager is appointed to act on its behalf. In that sense, relation between an idol and Shebait is akin to that of a minor and a guardian. As a minor cannot express himself, so the idol, but like a guardian, the Shebait and manager have limitations under which they have to act. Similarly, where there is any endowment for charitable purpose it can create institutions like a church, hospital, gurudwara etc. The entrustment of an endowed fund for a purpose can only be used by the person so entrusted for that purpose in as much as he receives it for that purpose alone in trust. When the donor endows for an idol or for a mosque or for any institution, it necessitates the creation of a juristic person. The law also circumscribes the rights of any person receiving such entrustment to use it only for the purpose of such a juristic person. The endowment may be given for various purposes, may be for a church, idol, gurdwara or such other things that the human faculty may conceive of, out of faith and conscience but it gains the status of juristic person when it is recognised by the society as such.

In this background, we find that this Court in Sarangadeva Periya Matam & Anr. Vs. Ramaswami Goundar (dead) by legal representatives, AIR 1966 SC 1603, held that a Mutt was the owner of the endowed property and that like an idol the Mutt was a juristic person and thus could own, acquire or possess any property. In Masjid Shahid Ganj & Ors. Vs. Shiromani Gurdwara Parbandhak Committee, Amritsar, AIR 1938 Lahore 369, a Full Bench of that High Court held that a mosque was a juristic person. This decision was taken in appeal to the Privy Council which confirmed the said judgment. Sir George Rankin observed:

In none of these cases was a mosque party to the suit, and in none except perhaps the last is the fictitious personality attributed to the mosque as a matter of decision. But so far as they go these cases support the recognition as a fictitious person of a mosque as an institution-apparently hypostatizing an abstration. This, as the learned Chief Justice in the present case has pointed out, is very different from conferring personality upon a building so as to deprive it of its character as immovable property.

There may be an endowment for a pious or religious purpose. It may be for an idol, mosque, church etc.. Such endowed property has to be used for that purpose. The installation and adoration of an idol or any image by a Hindu denoting any god is merely a mode through which his faith and belief is satisfied. This has led to the recognition of an idol as a juristic person.

In Deoki Nandan Vs. Murlidhar & Ors, AIR 1957 SC 137,

this Court held:

In Bhupati Nath Smrititirtha Vs. Ram Lal Maitra, ILR 37 Cal 128 (F), it was held on a consideration of these and other text that a gift to an idol was not to be judged by the rules applicable to a transfer to a sentient being, and that dedication of properties to an idol consisted in the abandonment by the owner of his demoinion over them for the purpoe of their being appropriated for the purposes which he intends. Thus, it was observed by Sir Lawrence Jenkins C.J. at p. 138 that the pious purpose is still the legatee, the establishment of the image is merely the mode in which the pious purpose is to be effected and that the dedication to a deity may be a compendious expression of the pious purposes for which the deciation is designed. Vide also the observations of Sir Ashutosh Mookerjee at p. 155. In Hindu Relgious Endowments Board V. Veeraraghavacharlu, AIR 1937 Mad 750 (G), Varadachariar J. dealing with this question, referred to the decision in ILR 37 Cal 128 (F), and observed:

As explained in the case, that purpose of making a gift to a temple is not to confer a benefit on God but to confer a benefit on those who worship in that temple, by making it possible for them to have the worship conducted in a proper and impressive manner. This is the sense in which a temple and its endowments are regarded as a public trust.

In Som Prakash Rekhi Vs. Union of India & Anr., 1981 (1) SCC 449, this Court held that a legal person is any entity other than a human being to which the law attributes personality. It was stated: Let us be clear that the jurisprudence bearing on corporations is not myth but reality. What we mean is that corporate personality is a reality and not an illusion or fictitious construction of the law. It is a legal person. Indeed, a legal person is any subject-matter other than a human being to which the law attributes personality. This extension, for good and sufficient reasons, of the conception of personalityis one of the most noteworthy feats of the legal imagination. Corporations are one species of legal persons invented by the law and invested with a variety of attributes so as to achieve certain purposes sanctioned by the law.

This Court in Yogendra Nath Naskar Vs. Commissioner of Income Tax, Calcutta, 1969 (1) SCC 555, held that the consecrated idol in a Hindu temple is a juristic person and approved the observation of West J. in the following passage made in Manohar Ganesh Vs. Lakshmiram, ILR 12 Bom 247;

The Hindu Law, like the Roman Law and those dervied from it, recognises not only incorporate bodies with rights of property vested in the Corporation apart from its individual members but also juridical persons called foundations. A Hindu who wishes to establish a religious or charitable institution may according to his law express his purpose and endow it and the ruler will give effect to the bounty or at least, protect it so far at any rate as is consistent with his own Dharma or conception or morality. A trust is not required for the purpose; the necessity of a

trust in such a case is indeed a peculiarity and a modern peculiarity of the English Law. In early law a gift placed as it was expressed on the altar of God, sufficed it to convey to the Church the lands thus dedicated. It is consistent with the grants having been made to the juridical person symbolised or personified in the idol. {Emphasis supplied}

Thus, a trust is not necessary in Hindu Law though it may be required under English Law.

In fact, there is a direct ruling of this Court on the crucial point. In Pritam Dass Mahant Vs. Shiromani Gurdwara Prabandhak Committee, 1984 (2) SCC 600, with reference to a case under Sikh Gurdwara Act, 1925 this Court held that the central body of worship in a Gurdwara is Guru Granth Sahib, the holy book, is a Juristic entity. It was held:

From the foregoing discussion it is evident that the sine qua non for an institution being a Sikh gurdwara is that there should be established Guru Granth Sahib and the worship of the same by the congregation, and a Nishan Sahib as indicated in the earlier part of the judgment. There may be other rooms of the institution meant for other purposes but the crucial test is the existence of Guru Granth sahib and the worship thereof by the congregation and Nishan Sahib.

Tracing the ten Sikh gurus it records:

They were ten in number each remaining faithful to the teachings of Guru Nanak, the first Guru and when their line was ended by a conscious decision of Guru Gobind Singh, the last Guru, succession was invested in a collection of teachings which was given the title of Guru Granth Sahib. This is now the Guru of the Sikhs.

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The holiest book of the Sikhs is Guru Granth Sahib compiled by the Fifth Master, Guru Arjan. It is the Bible of Sikhs. After giving his followers a central place of worship, Hari-Mandir, he wanted to give them a holy book. So he collected the hymns of the first four Gurus and to these he added his own. Now this Sri Guru Granth Sahib is a living Guru of the Sikhs. Guru means the guide. Guru Granth Sahib gives light and shows the path to the suffering humanity. Where a believer in Sikhism is in trouble or is depressed he reads hymns from the Granth.

When Guru Gobind Singh felt that his wordly sojourn was near, he made the fact known to his disciples. The disciples asked him as to who would be their Guru in future. The Guru immediately placed five pies and a coconut before the holy Granth, bowed his head before it and said:

The Eternal Father Willed, and I raised the Panth. All my Sikhs are ordained to believe the Granth as their preceptor. Have faith in the holy Granth as your Master and consider it The visible manifestation of the Gurus. He who hath a pure heart will seek guidance from its holy words.

The Guru repeated these words and told the disciple not to grieve at his departure. It was true that they would

not see his body in its physical manifestation but he would be ever present among the Khalsas. Whenever the Sikhs needed guidance or counsel, they should assemble before the Granth in all sincerity and decide their future line of action in the light of teachings of the Master, as embodied in the Granth. The noble ideas embodied in the Granth would live for ever and show people the path to bliss and happiness. (Emphasis supplied) The aforesaid conspectus visualises how Juristic Person was coined to subserve to the needs of the society. With the passage of time and the changes in the socio-political scenario, collective working instead of individualised working became inevitable for the growth of the organised society. This gave manifestation to the concept of Juristic Person as an unit in various forms and for various purposes and this is now a well recognised phenomena. This collective working, for a greater thrust and unity gave birth to cooperative societies, for the success and implementation of public endowment it gave rise to public trusts and for purpose of commercial enterprises the juristic person of companies were created, so on and so forth. Such creations and many others were either statutory or through recognition by the courts. Different religions of the world have different nuclei and different institutitonalised places for adoration, with varying conceptual beliefs and faith but all with the same end. Each may have differences in the perceptive conceptual recognition of god but each religion highlights love, compassion, tolerance, sacrifice as a hallmark for attaining divinity. When one reaches this divine empire, he is beholden, through a feeling of universal brotherhood and love which impels him to sacrifice his wealth and belongings, both for his own bliss and for its being useful to a large section of the society. This sprouts charity, for public endowment. It is really the religious faith that leads to the installation of an idol in a temple. Once installed, it is recognised as a juristic person. The idol may be revered in homes but its juristic personality is only when it is installed in a public temple.

Faith and belief cannot be judged through any judicial scrutiny. It is a fact accomplished and accepted by its followers. This faith necessitated the creation of a unit to be recognised as a Juristic Person. All this shows that a Juristic Person is not roped in any defined circle. With the changing thoughts, changing needs of the society, fresh juristic personalities were created from time to time.

It is submitted for the respondent that decisions of courts recognised an idol to be a as juristic person but they did not recognise a temple to be so. So, on the same parity, a gurdwara cannot be a juristic person and Guru Granth Sahib can only a sacred book. It cannot be equated with an idol nor does Sikhism believe in worshiping any idol. Hence Guru Granth Sahib cannot be treated as a juristic person. This submission in our view is based on a misconception. It is not necessary for Guru Granth Sahib to be declared as a juristic person that it should be equated with an idol. When belief and faith of two different religions are different, there is no question of equating one with the other. If Guru Granth Sahib by itself could stand the test of its being declared as such, it can be declared to be so.

An idol is a Juristic Person because it is adored after its consecration, in a temple. The offerings are made

to an idol. The followers recognise an idol to be symbol for God. Without the idol, the temple is only a building of mortar, cement and bricks which has no sacredness or sanctity for adoration. Once recognised as a Juristic Person, the idol can hold property and gainfully enlarge its coffers to maintain itself and use it for the benefit of its followers. On the other hand in the case of mosque there can be no idol or any images of worship, yet the mosque itself is conferred with the same sacredness as temples with idol, based on faith and belief of its followers. Thus the case of a temple without idol may be only brick, mortar and cement but not the mosque. Similar is the case with the Chruch. As we have said, each religion have different nuclei, as per their faith and belief for treating any entity as a unit.

Now returning to the question, whether Guru Granth Sahib could be a Juristic Person or not, or whether it could be placed on the same pedestal, we may first have a glance at the Sikh religion. To comprehend any religion fully may indeed be beyond the comprehension of any one and also beyond any judicial scrutiny for it has its own limitations. But its silver lining could easily be picked up. In the Sikh religion, Guru is revered as the highest reverential person. The first of such most revered Gurus was Guru Nanak Dev, followed by succeeding Gurus, the Tenth being the last living, viz., Guru Gobind Singh Ji. It is said that Adi Granth or Guru Granth Sahib was compiled by the Fifth Guru Arjun and it is this book that is worshiped in all the gurudwaras. While it is being read, people go down their knees to make reverential obeisance and place their offerings of cash and kind on it, as it is treated and equated to a living Guru. In the Book A History of the Sikhs by Kushwant Singh, Vol. I, page 307:

The compositions of the gurus were always considered sacred by their followers. Guru Nanak said that in his hymns the true Guru manifested Himself, because they were composed at His orders and heard by Him (Var Asa). The fourth guru, Ram Das said: Look upon the words of the True Guru as the supreme truth, for God and the Creator hath made him utter the words: (Var Gauri). When Arjun formally installed the Granth in the Harimandir, he ordered his followers to treat it with the same reverence as they treated their gurus. By the time of Guru Gobind Singh, copies of the Granth had been installed in most Gurdwaras. Quite naturally, when he declared the line of succession of gurus ended, he asked his followers to turn to the Granth for guidance and look upon it as the symbolic representation of the ten gurus.

The Grant Sahib is the central object of worship in all Gurdwaras.

It is usually draped in silks and placed on a cot. It has an awning over it and, while it is being read, one of the congregations stands behind and waves a flywhisk made of Yaks hair. Worshippers go down on their knees to make obeisance and place offerings of cash or kind before it as they would before a king: for the Granth is to them what the gurus were to their ancestors the Saca Padsah (the true Emperor).

The very first verse of the Guru Granth Sahib reveals the infinite wisdom and wealth that it contains, as to its legitimacy for being revered as guru:-

The First verse states: The creator of all is One, the only One. Truth is his name. He is doer of everything. He is without fear and without enmity. His form is immortal. He is unborn and self-illumined. He is realized by Gurus grace.

The last living guru, Guru Gobind Singh, expressed in no uncertain terms that henceforth there would not be any living guru. The Guru Granth Sahib would be the vibrating Guru. He declared that henceforth it would be your Guru from which you will get all your guidance and answer. It is with this faith that it is worshiped like a living guru. It is with this faith and conviction, when it is installed in any gurudwara it becomes a sacred place of worship. Sacredness of Gurudwara is only because of placement of Guru Granth Sahib in it. This reverential recognition of Guru Granth Sahib also opens the hearts of its followers to pour their money and wealth for it. It is not that it needs it, but when it is installed, it grows for its followers, who through their obeisance to it, sanctify themselves and also for running the langer which is an inherent part of a Gurdwara.

In this background, and on over all considerations, we have no hesitation to hold that Guru Granth Sahib is a Juristic Person. It cannot be equated with an Idol as idol worship is contrary to Sikhism. As a concept or a visionary for obeisance, the two religions are different. Yet, for its legal recognition as a juristic person, the followers of both the religions give them respectively the same reverential value. Thus the Guru Granth Sahib it has all the qualities to be recognised as such. Holding otherwise would mean giving too restrictive a meaning of a juristic person, and that would erase the very jurisprudence which gave birth to it.

Now, we proceed to examine the judgment of the High Court which had held to the contrary. There was difference of opinion between the two Judges and finally the third Judge agreed with one of the differing Judges, who held Guru Granth Sahib to be not a Juristic Person. Now, we proceed to examine the reasonings for their holding so. They first erred, in holding that such an endowment is void as there could not be such a juristic person without appointment of a Manager. In other words, they held that a juristic person could only act through some one, a human agency and as in the case of an Idol, the Guru Granth Sahib also could not act without a manager. In our view, no endowment or a juristic person depends on the appointment of a Manager. It may be proper or advisable to appoint such a manager while making any endowment but in its absence, it may be done either by the trustees or courts in accordance with law. Mere absence of a manager negative the existence of a juristic person. As pointed out in Manohar Ganesh Vs. Lakshmiram, ILR 12 Bom 247, (approved in Yogendra Nath Naskars case, 1969 (1) SCC 555) referred to above, if no manager is appointed by the founder, the ruler would give effect to the bounty. As pointed in Vidyapurna Tirtha swami

Vs. Vidyanidhi Tirtha Swami & Ors., ILR 27 Mad. 435 (at 457), by Bhashyam Ayyangar, J. (approved in Yogendra Nath Naskars case, 1969 (1) SCC 555) the property given in trust becomes irrevocable and is none was appointed to manage, it will be managed by the court as representing the sovereign. This can be done by the Court in several ways under Section 92, CPC or by handing over management to any specific body recognised by law. But the trust will not be allowed by the Court to fail. Endowment is when donor parts with his property for it being used for a public purpose and its entrustment is to a person or group of person in trust for carrying out the objective of such entrustment. Once endowment is made, it is final and it is irrevocable. It is the onerous duty of the persons entrusted with such endowment, to carry out the objectives of this entrustment. They may appoint a manager in the absence of any indication in the trust or get it appointed through Court. So, if entrustment is to any juristic person, mere absence of manager would not negate the existence a juristic person. We, therefore, disagree with the High Court on this crucial aspect.

In Words and Phrases Permanent Edition, Vol. 14A, at page 167:-

Endowment means property or pecuniary means bestowed as a permanent fund, as endowment of a college, hospital or library, and is understood in common acceptance as a fund yielding income for support of an institution.

The further difficulty the learned Judges of the High Court felt was that there could not be two Juristic Persons in the same building. This they considered would lead to two juristic persons in one place viz., gurudwara and Guru Grant Sahib. This again, in our opinion, is a misconceived notion. They are no two Juristic Persons at all. In fact both are so interwoven that they cannot be separated as pointed by Tiwana, J. in his separate judgment. The installation of Guru Granth Sahib is the nucleus or nectar of any gurudwara. If there is no Guru Granth Sahib in a Gurdwara it cannot be termed as gurudwara. When one refers a building to be a gurudwara, he refers it so only because Guru Granth Sahib is installed therein. Even if one holds a Gurdwara to be a juristic person, it is because it holds the Guru Granth Sahib. So, there do not exist two separate juristic persons, they are one integrated whole. Even otherwise in Ram Jankijee Deities and Ors. Vs. State of Bihar and Ors., 1999 [5] SCC 50, this Court while considering two separate deities, of Ram Jankijee and Thakur Raja they were held to be separate Juristic Persons. So, in the same precincts, as a matter of law, existence of two separate juristic persons were held to be valid.

Next it was the reason of the learned Judges that, if Guru Granth Sahib is a Juristic Person then every copy of Guru Granth Sahib would be a Juristic Person. This again in our considered opinion is based on erroneous approach. On this reasoning it could be argued that every idol at private places, or carrying it with one self each would become a Juristic Person. This is a misconception. An idol becomes a juristic person only when it is consecrated and installed at a public place for public at large. Every idol is not a juristic person. So every Guru Granth Sahib

cannot be a juristic person unless it takes juristic role through its installation in a gurudwara or at such other recognised public place.

Next submission for the respondent is that Guru Grant Sahib is like any other sacred book, like Bible for Christians, Bhagwat Geeta and Ramayana for Hindus and Quran for Islamic followers and cannot be a Juristic Person. This submission also has no merit. Though it is true Guru Granth Sahib is a sacred book like others but it cannot be equated with these other sacred books in that sense. As we have said above, Guru Granth Sahib is revered in gurudwara, like a Guru which projects a different perception. It is the very heart and spirit of gurudwara. The reverence of Guru Granth on the one hand and other sacred books on the other hand is based on different conceptual faith, belief and application.

One other reason given by the High Court is that Sikh religion does not accept idolatry and hence Guru Granth Sahib cannot be a juristic person. It is true that the Sikh religion does not accept idolatry but, at the same time when the tenth guru declared that after him, the Guru Granth will be the Guru, that does not amount to idolatry. The Granth replaces the guru henceforward, after the tenth Guru.

For all these reasons, we do not find any strength in the reasoning of High Court in recording a finding that the Guru Grant Sahib not a Juristic Person. The said finding is not sustainable both on fact and law.

Thus, we unhesitantly hold Guru Granth Sahib to be a Juristic Person.

Next challenge is that the basis for mutating of the name of Guru Granth Sahib Birajman Dharamshala Deh, by deleting the name of the ancestors of the respondents, based on Faraman-I-shahi issued by the then ruler of the Patiala State dated 18.4.1921 is liable to be set aside, as this Faraman-i-Shahi did not direct the recording of the name of Guru Granth Sahib. For ready reference the said Faraman-i-Shahi is again quoted hereunder:-

In future, instructions be issued that so long the appointment of a Mahant is not approved by Ijlas-I-Khas through Deori Mualla, until the time, the Mahant is entitled to receive turban, shawl or Bandhan or Muafi etc. from the Government, no property or Muafi shall be entered in his name in the revenue papers.

It should also be mentioned that the land which pertains to any Dera should not be considered as the property of any Mahant, nor the same should be shown in the revenue papers as the property of the Mahant, but these should be entered as belonging to the Dera under the management of the Mahant and that the Mahants shall not be entitled to sell or mortgage the land of the Dera. Revenue Department be also informed about it and the order be gazetted.

It was also submitted that it was not known whether this Faraman-i- Shahi was administrative in nature or was issued as a sovereign. If it was administrative it could not have the same force of law.

We have examined this Faraman-i-Shahi. It does not direct the authorities to mutate the name of Guru Granth Sahib. It merely directed, the revenue authority that till Mahants appointment is approved by Deors Mulla, no property or Muafi received by a Mahant should be entered in his name, in the revenue papers. Further the land of any Dera should not be considered to be that of Mahant. This was only a directive which is protective in nature. In other words it only directed that they should be done after ascertaining the fact and if the land was of the Dera it should not be put in the name of Mahant. In other words, it stated - enquire, find out the facts and do the needful. The mutation in the case before us was not on account of this Farman-I-Shahi but was made because of the application made by one Rulia Singh and others of village Bilaspur to the Patwari, and mutation was done only after a detailed enquiry, after examining witnesses and other evidence on the record, which resulted into Ex.8 and Ex. 9. In the said proceedings number of witnesses appeared before the Revenue Officer and stated that their ancestors gifted this disputed land for charity (Punnarth) for the benefit of public, who were the proprietors and was merely entrusted to the ancestors of the respondents for management. The claimants had no rights over it. Admittedly they did not receive this land for any payment nor for any service rendered by them to such donors. Their statement was that this land was given to them with clear direction that they should use it for providing food and comfort to the travellers (Musafran) passing through the village. They further gave evidence that their forefathers gave it in the name of Guru Granth Sahib Birajman Dharamshala Deh. In spite of this, Atma Ram and others and their predecessors did not perform their obligations. On the contrary, with oblique motives they got this disputed land entered in their name in the revenue records which was an attempt to usurp the property. The Revenue Officer after enquiry held that Atma Ram and other ancestors of respondents admitted that this land was given without making any payment and was specifically meant for providing food and shelter to the travellers which function they were not performing. It was only after such an enquiry, he ordered the mutation by ordering deleting of the name of Atma Ram and others. With reference to the question of appointment of a manager, he recorded that this had to be decided by Deori Mualla, where such a case about this was pending. Similar was the position in the other mutation proceedings about which an application was also made to the Revenue Officer, where the names of Narain Dass, Bhagat Ram sons of Gopi Ram were deleted and aforesaid name was mutated resulting into Ex. 9. So, the mutation of name was not because of direction issued by the Farman-I-Shahi. So no error could be said to have been committed, when Ex.8 and Ex.9, viz., mutations were recorded. Faraman-I-Shahi if at all may be said to have led to the enquiry but it was not the basis.

This takes us to the last point for our consideration. After the said difference of opinion between two learned Judges, Mr. Justice M.M. Punchhi did not decide the case on merits though the other Judge Mr. Justice Tiwana, held on merits in favour of the appellants, i.e., that the property belonged to Gurdwara. When the case again returned to the same bench for decision on merits there was again difference of opinion. It was again referred to the third judge who concurred with Mr. Justice Punchhi. Against this

the appellants filed special leave petition in this court which was dismissed for default as aforesaid. However, we find that the third Judge who concurred with Mr. Justice Punchhi based his finding on the ground that Guru Granth Sahib was not a juristic person hence entry Ex. 8 and 9 was invalid. But once the very foundation falls, and Guru Granth Sahib is held to be a juristic person, the said finding cannot stand. Thus, in our considered opinion there would not be any useful purpose to remand the case. That apart since this litigation stood for a long time, we think it proper to examine it ourself.

Learned senior counsel for the respondents who argued with ability and fairness said that in fact the only question which arises in this case is whether Guru Granth Sahib is a juristic person. Examining the merits we find that the mutation in the revenue papers in the name of Guru Granth Sahib was made as far back as in the year 1928, in the presence of the ancestors of respondents and no objection was raised by anybody till the filing of the present objection by the respondents as aforesaid under Section 8/10 of the 1925 Act. This is after a long gap of about forty years. Further, this property was given in trust to the ancestors of respondents for a specified purpose but they did not perform their obligation. It is also settled, once an endowment, it never reverts even to the donor. Then no part of these rights could be claimed or usurped by the respondents ancestors who in fact were trustees. Hence for these reasons and for the reasons recorded by Mr. Justice Tiwana, even on merits, any claim to the disputed land by the respondents has no merit. Thus any, claim over this disputed property by the respondents fails and is hereby rejected. We uphold the findings and orders passed by the Tribunal against which FAO No. 449 of 1978 and FAO No. 2 of 1980 was filed.

For the aforesaid reasons and in view of the findings which we have recorded, we hold that High Court committed a serious mistake of law in holding that the Guru Granth Sahib was not a juristic person and in allowing the claim over this property in favour of respondents. Accordingly, this appeal is allowed and the judgment and decree passed by the High Court dated 19-4-1985 and in FAO No. 449 of 1978 and FAO No. 2 of 1980 are hereby set aside. We uphold the orders passed by the Tribunal both under Section 10 of the said Act in Suit No. 449 of 1978. Appeal is, accordingly, allowed. Costs on the parties.

S.L.P. (Civil) Nos. 2735-36 of 1989:

The main question raised in these special leave petitions is the same as has been raised in Civil Appeal No.3968 of 1987, which we have disposed of today. In view of this, the point raised by the petitioners in this petition is unsustainable for the same reasons and is therefore dismissed.