IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.4183 of 2024
Reserved on : 07.10.2026
Date of Decision: 16.10.2026

Yagya Chand

.....Petitioner

Versus

Competent Authority-cum-Collector and Ors.

.....Respondents

Coram
Hon'ble Mr. Justice Sandeep Sharma, Judge.
Whether approved for reporting? Yes.

For the Petitioner: Mr. R.L. Sood, Senior Advocate with Mr. Arjun Lal, Ms. Sanjivini Sood, Mr. Vidur Kapur and Ms. Tamanna Basoli, Advocates.

For the Respondents: Mr. Rajan Kahol & Mr. Vishal Panwar, Additional Advocates General and Mr. Ravi Chauhan & Mr. Anish Banshtu, Deputy Advocates General, for the State.
Ms. Shreya Chauhan, Advocate, for respondent No.2.
Mr. Arvind Sharma, Senior Advocate with Mr. Amit Thakur, Advocate, for respondent No.3.
Ms. Shristi Verm, Advocate, for respondent No.4.

Sandeep Sharma, J.

Being aggrieved and dissatisfied with non disbursal of the award amount in terms of supplementary award No. 113/4 dated 22.05.2018 (Annexure-PD Colly.), passed by respondent No. 1- Competent Authority-cum- Collector, Land Acquisition, (hereinafter referred to as the "CALA"), petitioner herein claiming himself to have constructed structure

High Court of H.P.

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No. 35, which subsequently came to be acquired by respondent No.2-National Highways Authority of India (in short "NHAI"), has approached this Court in the instant proceedings praying therein for the following relief(s):

> "a) Order and direct the respondents No. 1 and 2 to release and pay the total compensation, in the sum of Rs. 68,32,650/- (inclusive of the deposited sum of Rs.66,66,000/- as well as the unpaid/undeposited amount of Rs.1,66,650/- to the petitioner alongwith interest @ 15% per annum from the date of the Award till date of payment), in respect of his acquired, Structure No. 35, standing on Khasra No. 4678/1, in terms of the Annexure PD(Colly) i.e., Supplementary Award No. 113/4, dated 22.05.2018, pertaining to Revenue Village Shillihar, Hadbast No. 37/91 ordered by Respondent No. 1;
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> b) Quash (Annexure PG) i.e., Communication No. CALA (NHAI) (SLAU-II)- to (FDR)/2019, Dated Pandoh, the 03rd June, 2019, whereby the Rs.66,66,000/- i.e. amount of compensation was sent to respondent No. 3 to keep the same in Fixed Deposit; with all consequences to flow in favour of the petitioner including but not restricted to the release of the deposited amount of Rs.66,66,000/- alongwith interest accruing upto date of payment to the petitioner.
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> c) Order and Direct Respondent No. 3 to release the sum of Rs.66,66,000/- alongwith interest accrued thereupon upto the date of payment, currently held in Fixed Deposits, in the name of the Respondent No. 1."

2. Quintessential facts, as emerge from the pleadings adduced on record by the respective parties, are that in the year 2017, at the instance

High Court of H.P.

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of NHAI, land acquisition proceedings were commenced by respondent No. 1-CALA, for construction, operation and four laning of the Nerchowk to Manali section of National Highway-21 in respect of land falling in Mohal Shilihar, Tehsil Bhuntar, District Kullu, H.P.

3. Petitioner claims that in the aforesaid acquisition proceedings, his permanent house numbered as 75, situate in village Bhuin, Gram Panchayat Bhuin, District Kullu, Himachal Pradesh, also came to be acquired. To substantiate factum of his having constructed the aforesaid house, petitioner has placed on record a certified copy of the Pariwar Register dated 28.05.2018 and certificate dated 28.05.2018 issued by the Panchayat Secretary, Gram Panchayat Bhuin, Development Block Kullu, District Kullu as well as a copy of the electricity bill and receipt.

4. Perusal of the aforesaid documents suggests that petitioner had built and constructed his house, which subsequently came to be acquired for the four laning of Nerchowk to Manali. Petitioner has also placed on record copy of the ration card issued in the name of his wife, wherein all his family members including the petitioner find mention in the details of family members (Annexure PB).

5. As far as the acquisition proceedings are concerned, as per the record of respondents No. 1 and 2, house of the petitioner is identified as

High Court of H.P.

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structure No. 35, situate in khasra No. 4678/1, hadbast No. 37/91, in Revenue Village Shilihar, Tehsil Bhuntar, District Kullu, H.P.

6. It is averred in the petition that during the course of the acquisition proceedings, respondents No. 1 and 2 conducted independent inquiries based upon the revenue and panchayat record regarding the structure and the land proposed to be acquired with a view to ascertain the ownership and correct valuation etc. Respondent authorities engaged the services of one Engineer Rajesh Baniyal, Valuer and Consultant, who after visiting the house of the petitioner in order to take measurements and photographs etc., submitted a detailed report regarding the valuation of the entire house of the petitioner, building plans, photographs of the inside of the house of the petitioner, type of structure, quality of building material used as well as age of the structure and certificate of residence of the petitioner issued by the Secretary, Gram Panchayat etc. Copy of the aforesaid complete report obtained officially from the record of respondent No.1, duly authenticated and signed by the Patwari, SLAU-II, NHAI at Pandoh, H.P., showing seal and signatures, is placed on record as Annexure P-C Colly..

7. Respondent No. 1 announced award No. 113 pertaining to revenue village Shilihar, hadbast No. 37/91 dated 31.07.2017. Besides

High Court of H.P.

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above, several other supplementary awards also came to be announced. Supplementary award No. 113/4 was announced on 22.05.2018, which pertains to the detailed assessment/calculation of structure No. 35 in respect of the total amount of compensation awarded as payable to the petitioner (Annexure P-D Colly.).

8. Relevant entry qua the acquired house of the petitioner, allegedly constructed by him on khasra No. 4678/1, is at serial No. 2194. Under column No. 16, name of the petitioner, Yagya Chand, S/o Uttam Chand, stands recorded as the person, who had constructed the building/structure on the spot. In column No. 7, the structure stands identified as STR-35. The total amount of compensation payable for the structure is mentioned under column No. 13 as Rs. 66,66,000/-. In addition to the aforesaid sum of compensation, other charges @ 2.5% in the sum of Rs. 1,66,650/- are also recorded as payable to the petitioner, as per column No. 14.

9. Respondents No. 1 and 2 have deposited the aforesaid amount of compensation in the sum of Rs. 66,66,000/- with respondent No. 3-State Bank of India. Petitioner claimed that he is entitled to receive the aforesaid sum of Rs. 66,66,000/- along with interest accrued thereon till the date of payment and as such, applied to respondent No. 1-CALA for the release of

High Court of H.P.

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the awarded compensation in his favour, but before order with regard to disbursement of compensation could be passed by the competent authority, objections dated 25.06.2018 came to be filed by the President of an alleged Managing Committee, Gurdwara Guru Granth Sahib, Bhuntar (respondent No.4), objecting therein to release of the amount in favour of the petitioner, (Annexure P-F).

10. In the aforesaid objections, respondent No. 4 claimed that the award under reference is neither with regard to the structure standing on the land nor is the same qua property of Yagya Chand, rather, same has been made with regard to the land and property belonging to Guru Granth Sahib, Bhuntar, in which, petitioner has no right, title and interest, as was held by the civil court in two cases.

11. Having taken note of the aforesaid dispute inter se the petitioner and respondent No. 4, respondent No. 1 vide communication No. CALA(NHAI)(SLAU-II)(FDR)/2019 dated 03.06.2019 sent a communication to respondent No. 3 forwarding a cheque in the sum of Rs. 66,66,000/- with a direction to lodge the same in a fixed deposit in the name of respondent No. 1 (Annexure PG).

12. I have heard the learned counsel for the parties and gone through the records of the case.

High Court of H.P.

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13. In nutshell, case of the petitioner is that once house of the petitioner identified as acquired structure No. 35 was of the age of 3 to 4 years at the time of commencement of acquisition proceedings, coupled with the fact that the expert engineer/valuer of the respondents has also opined that acquired structure No. 35 was 8 years old and it is not the case of respondent No. 4 that the structure standing over the land was constructed by respondent No. 4, there was no occasion, if any, for respondent No. 1 to not release the award amount in favour of the petitioner.

14. On 27.07.2023, wife of the petitioner namely Smt. Kanchan, preferred an application to respondent No. 1 inquiring therein reasons for non release of the amount of compensation awarded qua structure No. 35 in favour of the petitioner Yagya Chand. In response to the aforesaid communication, reply dated 02.08.2023 was received (Annexure PH), perusal whereof reveals that respondent No. 1 has responded to state that award amount was not released as the structure is allegedly the subject matter of dispute in RFA No. 240 of 2016, titled *Ghanshyam Dass / Yagya Chand versus Mahender Singh Chawla and others*, pending in the High Court of Himachal Pradesh. In aforesaid communication, respondent No. 1

High Court of H.P.

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further stated that the awarded amount was consequently ordered to be kept/deposited in FDRs.

15. Though petitioner attempted to clarify with the authority concerned that there is nothing in the record of respondent No. 1 that structure is a subject matter of dispute in RFA No. 240 of 2016, rather copies of jamabandis for the years 2003-2004 and 2008-2009 appended as Annexure P-J clearly reveal that against khasra No. 4678, no structure had been reflected in column No. 7, rather throughout only cultivable land and dhank are mentioned.

16. Since despite there being repeated requests, money qua the structure, which is claimed to have been constructed by the petitioner, has not been released, he has approached this Court in the instant proceedings praying for the relief as reproduced hereinabove.

17. Pursuant to notices in the instant proceedings, respondents No. 1, 2 and 4 have filed their replies, wherein the facts, as noticed hereinabove, have been not refuted, yet an attempt has been made to refute the claim of the petitioner on the premise that petitioner cannot claim compensation because ownership of the land belongs to respondent No. 4-Guru Granth Sahib and the property dispute inter-se the petitioner and respondent No. 4 is still pending. Besides above, it is also contended by the

High Court of H.P.

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respondents that petitioner has approached this Court directly without availing the alternative remedy available under the NHAI Act.

18. Having heard learned counsel representing the parties and perused the material on record, this Court finds that precise grouse of the petitioner as has been highlighted in the petition and further canvassed by Mr. R.L. Sood, learned Senior Counsel, representing the petitioner is that though it stands established on record that structure qua which compensation as detailed above has been awarded by the competent authority was constructed by the petitioner coupled with the fact that respondent No. 4 has no locus, if any, to oppose the claim of the petitioner, compensation amount is not being released on account of the pendency of RFA No. 240 of 2016, which otherwise has no connection, if any, with the controversy at hand.

19. Petitioner asserts that he is the person entitled to receive compensation for the structure as the same was constructed by him and was in existence at the spot at the time of acquisition. To substantiate his aforesaid claim, petitioner has placed reliance upon the certificate issued by the concerned Patwari (Annexure PC), perusal whereof suggests that the structure in question is approximately 4 to 5 years old. It is not in dispute

High Court of H.P.

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that aforesaid official record stands prepared in the course of public duty and constitutes material evidence in favour of the petitioner's title.

20. Moreover, this Court finds that CALA vide supplementary award No. 113/4 dated 22.05.2018 (Annexure PD Colly.), has admitted the petitioner to have constructed the building at the spot. More so, respondent No. 1 in its reply has admitted that amount deposited only pertains to structure No. 35, which admission is further reiterated at pages 93 and 100 of the paper book. No doubt, respondent No. 4 has stated in its reply that structure has been constructed on the land, which is the subject matter of RFA No. 240 of 2016, but there is no specific denial to the claim of the petitioner that he is entitled to compensation on account of his having constructed structure on the land in question. An attempt has also been made by the aforesaid respondent to set up a case that compensation has been deposited qua both land and structure, which is contrary to the reply filed by CALA, respondent No. 1.

21. In the case at hand, respondent No. 4 filed objections, (Annexure PF), asserting that structure was built more than 60 years ago and belongs to the Gurdwara, however, as has been noticed herein above, concerned Patwari vide certificates (Annexure PC Colly.), has clarified that the structure is approximately 4 to 5 years old. Besides above, Engineer

High Court of H.P.

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Rajesh Baniyal, Valuer and Consultant engaged by the respondent authorities, after visiting the house of the petitioner (Annexure PC), has also reported that house was constructed 7-8 years back.

22. Though there appears to be a dispute pending in the competent court of law qua ownership of the land, but certainly petitioner's claim qua compensation for the structure allegedly raised by him 5 to 8 years back does not depend upon the proof of title to the underlying land alone. Acquisition includes structure No. 35 and compensation for such structure must be paid to the person, who has established an interest in the structure. Needless to say, building, superstructure or improvement standing on the acquired land is independently compensable and the person, who constructed, possessed, owned or beneficially enjoyed the structure is a person interested to that extent.

23. Though Management Committee of Guru Granth Sahib, Bhuntar (respondent No. 4) has claimed that the structure was built more than 60 years ago and belongs to Gurdwara, however, the civil suit relied upon by the Committee pertains only to the land (Annexure PK). There is no pleading qua the ownership of structure No. 35. Aforesaid suit does not seek any declaration or relief regarding the structure. A land dispute without a specific plea or adjudication qua the structure cannot be treated

High Court of H.P.

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as proof of entitlement to compensation for the structure, rather to determine the entitlement of the petitioner, award made by the competent authority for land acquisition is the most relevant document in the acquisition proceedings (Annexure PD). Once it stands duly recorded in the award that petitioner constructed the building at the spot, which fact has been further substantiated with the certificate issued by the Patwari, petitioner can be said to have discharged prima facie burden and now the burden shifts upon the rival claimant to produce cogent and convincing evidence to establish ownership of the structure, which in the case at hand has not been produced.

24. It is apt to take note of the fact that prior to the initiation of the acquisition proceedings, a civil suit bearing No. 53 of 1997, titled as Mahender Singh Chawla versus Uttam Singh, was filed concerning the management and ownership of Gurdwara Guru Granth Sahib, Bhuntar over the disputed land, wherein Yagya Chand was defendant No. 4. Aforesaid suit was decided on 31.03.2016 and decreed in favour of the plaintiffs, but subsequently, judgment passed in the suit was challenged in RFA No. 240 of 2016, titled Ghanshyam Dass versus Mahender Singh, which is pending adjudication before this Court. Vide order dated

High Court of H.P.

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20.07.2016, this Court stayed execution of the impugned order dated 31.03.2016 in RFA No. 240 of 2016.

25. There is another important aspect of the matter. Aforesaid suit, which came to be filed prior to the initiation of acquisition proceedings by the respondent under Section 92 of CPC, was for the appointment of a new trustee of Gurdwara Guru Granth Sahib, Bhuntar as well as of its said property, vesting the property and management of the said Guru Granth Sahib, directing the defendants to deliver possession of the trust property, directing defendant No. 1 to render accounts of the property of Guru Granth Sahib, Bhuntar, and lastly for framing of a scheme for the proper management of Guru Granth Sahib, Bhuntar along with property.

26. In the aforesaid suit, it came to be pleaded that defendant No. 1, now deceased Uttam Singh, father of the present petitioner, was servant of Santokh Singh and was living in the Gurdwara along with him. In the year 1984, when Sikh riots took place in Bhuntar, people belonging to the Sikh community left Bhuntar out of fear, including members of the Committee. Taking advantage of this position, Uttam Singh got himself entered as a Kardar/Mohtamim of Guru Granth Sahib, Bhuntar. It is also alleged that he transferred the property of the Gurdwara in favour of defendant Kewal Ram and also Khemi Ram and his own two sons, namely

High Court of H.P.

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Ghanshyam Dass and Yagya Chand, by means of execution of patta dawami. It also came to be alleged in the aforesaid suit that aforesaid Uttam Chand misappropriated the amount received on such transfer. It also came to be alleged that Uttam Chand without authority was not recognizing the authority of the Committee consisting of defendants No. 6 to 8.

27. It was alleged therein that in a previously instituted suit by Sh. Harbans Singh i.e. Civil Suit No. 216 of 1989, which suit was dismissed by the learned trial Court and further carried in appeal before the learned Additional District Judge in Civil Appeal No. 43 of 1993 and same was allowed, as a consequence thereof, the suit was decreed. Defendant No. 1 in the aforesaid suit, namely Uttam Singh (predecessor of Yagya Chand i.e. present petitioner), preferred Regular Second Appeal bearing RSA No. 129 of 1997 before this Court, which ultimately came to be allowed vide judgment dated 03.09.2021. It is pertinent to mention here that against the said judgment dated 03.09.2021, a review petition No. 106 of 2021, had been filed, which was allowed in terms of decision dated 11.8.2026. Relevant paras of the aforesaid judgment read as under:

> "20. Be that as it may, at the time purchase of the suit property, by one Ishwar Singh, in the name of Guru Granth Sahib, conspicuously when it occurs in District Kullu, H.P., and whereat, at the relevant

High Court of H.P.

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time of purchase supra, the trite territory fell, in the erstwhile Punjab, and to which, the provisions, of The Sikh Gurudwara Act 1925, rather were applicable, neither evidently the afore Ishwar Singh, nor Sikh worshipers numbering 50 or more, nor thereafter any sikh worshipers, of the disputed sikh shrine, hence numbering 50 or more, rather proceeded to, cast a petition under Section 3 or under Section 7,of the Afore Act, seeking therethrough, a declaration for the sikh shrine being declared as a sikh gurudwara. Since the Sikh Gurudwara Act 1925 is a special statute rather governing the mode of enlistment of the sikh shrine, in the apposite schedule, and, also regulates the makings of declaration, of ,any shikh shrine, hence as a sikh gurudwara besides regulates the appointments concerned to the Sikh Shrine concerned. Therefore, it acquires complete force, vis-à-vis, the facet supra, and, no legal mechanism than, the ones contemplated in statutory provisions thereof, becomes amenable for becoming recoursed, rather for the relevant purpose, by the plaintiff. Consequently neither the plaintiff and nor the defendant can at this stage make any dependence, upon provisions supra. However, Section 29 of The Sikh Gurudwara Act 1925, provisions whereof, are, extracted hereinafter also do require, an allusion being made thereto, provisions whereof become extracted hereinafter:-

> “29. Exclusion of jurisdiction of the courts. Notwithstanding anything contained in any other law or enactment for the time beingin force no suit shall be instituted and no court shall entertain or continue any suit or proceeding, in so far as such suit or proceeding involves-

High Court of H.P.

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(1) any claim to, or prayer for the restoration of any person to an office in a Notified Sikh Gurudwara or any prayer for the restoration or establishment of any system of management of a Notified Sikh Gurdwara other than a system of management established under the provisions of Part III;

(2) any claim to, or prayer for the restoration of any person to an office in or any prayer for the restoration or establishment of any system of management of, any gurdwara in respect of which a notification has been published in accordance with the provisions of subsection (3)of Section 7 unless and until it has been decided under the provisions of Section 16 that such gurdwara should not be declared to be a Sikh Gurdwara."

though section (supra), completely bars the exercisings of jurisdictions, by the civil Court concerned, inasmuch as, for entertaining any suit, appertaining to establishment of a system, for managing of Gurudwara, nor any claim or prayer is amenable to be made before any civil court concerned, and, appertaining to registration of any person, to any office, nor any prayer for registration of management of any Gurudwara, in respect whereof a notification, has been published, in accordance with the provisions, of sub-section 3 of Section 7, can be validly made before the Civil Court concerned, unless and until, the Arbitral mechanism contemplated in the Act (supra), inasmuch as in Section 16 of the Act, rather makes a decision that the Gurudwara should not be declared to be a sikh gurudwara.

21. However, a reading of the afore extracted provisions, as carried in Section 7, and, Section 29, does make imminent disclosure(s), that Section 7 is applicable, only upon, the provisions

High Court of H.P.

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enshrined therein, besides the provisions occurring in the prior thereto section(s), becoming complied with. However, since as aforestated, neither one Ishwar Singh during his life time, nor thereafters hence the apposite Sikh congregation(s), numbering 50, or more hence recoursed the provisions, as carried in Chapter-2, nor when thereafter(s), the proceedings, under Section 16 of the Act, with respect to the strived for declaration, became commenced nor became terminated, with respect to the apposite shrine being not amenable for being or being amenable for being declared as a sikh gurudwara. Significantly, when Section 29 thereof, rather conditionally bars the jurisdiction of the civil Court, only, upon, and, uptil the mandate pronounced in Section 16 of the Act (supra) becoming completely terminated. However, since as stated (supra) the afore mandate remained unrecoursed Therefore, operation of afore Section 29, vis-a-vis, therethroughs, the jurisdiction of the civil court concerned, becoming ousted, especially in respect of matters, mentioned therein, cannot be accepted, to, fall within the domain of section supra. However, yet the afore drawn inference, vis-avis, the suit property at its inception, hence assuming, the trait of animus-dedicandi, does assume the fullest vigor, as, it dehors the statutory declaration rather facilitates public worship, of, the holy book, hence within the apposite hallowed precincts, and, for ensuring collective worships, thereto(s) this Court has appointed the D.C., Kullu, as, Court Receiver, of the suit property.

22. Be that as it may, Section 38 of the Sikh Gurudwara Act 1925, occurring in Chapter-IV of Special Statue, (supra), contains relevant conditional civil Court jurisdiction

High Court of H.P.

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vesting provision, provision(s) whereof, are extracted hereinafter:-

> "38. Recourse to ordinary courts in cases where action has not been taken under Part I with a view to application of provisions of Part III to gurdwara.-
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> (1) Notwithstanding anything contained in this Act or any other Act or enactment in force, any two or more persons having interest in any gurdwara in respect of which no notification declaring the gurdwara to be a Sikh Gurdwara has been published under the provisions of this Act may, after the expiry of one year from the commencement of this Act [or, in the case of the extended territories, from the commencement of the Amending Act, as the case may be] or of such further period as the [State] Government may have fixed under the provisions of sub-section (1) of Section 7, and after having obtained the consent of the Deputy Commissioner of the district in which such gurdwara is situated institute a suit, whether contentious or not, in the principal court of original jurisdiction or in any other court empowered in that behalf by the [State] Government within the local limits of whose jurisdiction the gurdwara is situated praying for any of the reliefs specified in section 92 of the Code of Civil Procedure, 1908(5 of 1908), and may in such suit pray that the provisions of Part III may be applied to such gurdwara.
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> (2) The court in which a suit is instituted under the provisions of sub-section (1) shall decide whether the gurdwara is or is not a gurdwara as described in subsection (2) of Section 16, and if the court decides that it is such a gurdwara and

High Court of H.P.

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is also of opinion that, having regard to all the circumstances, the gurdwara is one to the management of which the provisions of Part III should be applied, the court shall by public advertisement and in such other manner as it may in each case direct, call upon any person having interest in the gurdwara to appear and show cause why the provisions of Part III should not be so applied, and shall in its order fix a date not less than one month from the date of the order on which any person appearing shall be heard.

(3) Upon the date fixed under the provisions of subsection (2) or on any subsequent date to which the hearing may be adjourned, the court shall proceed to hear the person or persons, if any, appearing and if the court is satisfied that the provisions of Part III can be applied to the management of the gurdwara without prejudice to any existing order or decree relating to the gurdwara and conferring on any person or declaring any person to be entitled to any right, in respect of the administration or management thereof, the court shall pass a decree that the said provisions shall apply to the management of the gurdwara.

(4) Upon such decree being passed and subject to any order that may be passed on appeal against or in revision of the decree the provisions of Part III shall apply to such gurdwara as if it had been declared by notification under the provisions of this Act to be a Sikh Gurdwara.

(5) When under the provisions of sub-section (3) the provisions of Part III have by decree been applied to the management of a gurdwara any hereditary officeholder of such gurdwara

High Court of H.P.

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who within twelve months after the date of the decree has resigned office or been removed from office otherwise than in accordance with the provisions of section 134 or under the provisions of section 142 or a presumptive successor of such officeholder, may within ninety days from the date of the resignation or removal, as the case may be of such office-holder, present a petition to the Court which passed the decree claiming to be awarded compensation on the ground that he has suffered or will suffer pecuniary loss owing to a change in the management of such gurdwara and the court may, notwithstanding the fact that such office-holder has voluntarily resigned, pass a decree awarding him compensation as if such office-holder had been unlawfully removed from his office.

(6) The provisions of sections 22, 23, 24 and 25 shall so far as may be, apply to proceedings under the provisions of sub-section (5) and to proceedings arising therefrom, as if the court was a tribunal."

The provisions supra, when commence with a non obstante clause, obviously hence override, the prior thereto provisions, as carried in Chapters 2 and 3 of the Act (supra), also operate(s) as an exception thereto(s). Therefore, therethroughs, the apposite jurisdiction of the civil court(s) rather becomes conditionally preserved, even when the statutory provisions prior thereto, appertaining to, the, Sikh shrine being or not being a sikh gurudwara, hence remained unrecoursed. However, the statutory conditional vestment of jurisdiction, in the civil Courts, by Section 38 supra, is rested upon the statutory leave, of the Deputy Commissioner concerned, being asked, and, it being also

High Court of H.P.

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granted, imperatively prior to the institution of the suit. However, when the afore statutory leave became evidently niether asked for, nor when it became granted. In nutshell, for breach of the mandate of Section 38 of the Act, this Court concludes,that the instant civil suit is grossly misconstituted, and, also is not -47- maintainable, besides obviously the civil court, had no jurisdiction, to try and maintain it, without the prior thereto statutorily mandated leave, envisaged in Section 38 of the Act (supra), being asked for, and it being accorded, by the Deputy Commissioner of District Kullu, H.P.

23. In view of the afore observation, there is merit in the instant appeal, and, the same is accordingly allowed. The judgment(s) and decree(s) impugned before this Court is set aside. The substantial questions of law are accordingly answered. The plaint is ordered to be returned it being barred by law. All pending applications, if any, also stand disposed of."

28. Vide the aforesaid judgment, Coordinate Bench of this Court allowed the appeal and returned the plaint. Entire case set up by respondent No. 4 in the said proceedings is/was that one Mr. Ishwar Singh, who was a worshipper of Guru Granth Sahib, had constructed a Gurdwara and he had endowed whole of the property which was standing in his name in favour of the said Guru Granth Sahib, which was subsequently kept in the Gurdwara. At the cost of repetition, they filed a Civil Suit No. 216 of 1989 before the learned Senior Sub Judge, Lahaul and Spiti, praying therein for a decree of declaration to the effect that defendant No. 1

High Court of H.P.

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(petitioner herein), is not legally appointed Kardar of Guru Granth Sahib, Bhuntar and the transfer of the property of Guru Granth Sahib by Mr. Uttam Singh, defendant, in favour of defendants No. 2 and 3 and others, if any, is void and inoperative and also not legal and for the interest and legal necessity of Guru Granth Sahib, defendants be restrained from raising any sort of construction over the suit land, khasra No. 511/920- 939, by way of decree for permanent prohibitory injunction.

29. Once vide judgment dated 03.09.2021, which further came to be reviewed vide judgment dated 11.08.2023 passed in Review Petition No. 106 of 2021, suit of the plaintiff was dismissed and plaint was ordered to be returned, this Court is persuaded to agree with Mr. R.L. Sood, learned Senior Counsel representing the petitioner, that otherwise also, respondent No. 4 has no locus, if any, to lay challenge to the claim of the petitioner qua compensation awarded for the structure standing on the land. Since Coordinate Bench of this Court in RSA No. 129 of 1997 did not find respondent No. 4 to have been constituted strictly in terms of the provisions of law, pendency of RFA bearing No. 240 of 2016 filed by the petitioner, laying therein challenge to the judgment and decree dated 31.03.2016 passed by the learned District Judge, Solan in Civil Suit No. 26 of 2012, wherein otherwise a specific prayer has been made for the

High Court of H.P.

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appointment of a new trustee of Gurdwara Guru Granth Sahib, Bhuntar and its property, may not be of much relevance as far as the present petitioner is concerned. The Management Committee of Guru Granth Sahib, Bhuntar, which otherwise does not appear to have any locus to contest the claim of the petitioner in light of the judgment dated 03.09.2021 passed by Coordinate Bench of this Court in RSA No. 129 of 1997, has asserted that the structure was built more than 60 years ago and belongs to the Gurdwara, however civil suit relied upon by the Committee admittedly pertains only to the land, wherein there is no pleading with regard to the ownership of structure No. 35. There is no averment that the structure, qua which compensation is being claimed, was constructed by the Gurdwara. Neither has any declaration been sought nor any relief regarding the structure.

30. Once the award records that the petitioner constructed the building at the spot and such fact has been further substantiated with the certificate issued by the Patwari, the claim of the petitioner for the release of compensation in his favour, deserves to be allowed.

31. Vide judgment dated 3.9.2021, Coordinate Bench of this Court in RSA No. 129 of 1997, has categorically held that the Gurudwara Guru Granth Sahib, Bhuntar never came into existence and is not a legal entity.

High Court of H.P.

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It has been held in para 20 that the Gurudwara could only come into existence under the provisions of the Sikh Gurudwara Act, 1925. The procedure therein was never followed. Hence, in effect it has been held that there is no legal body or entity known as the "Gurudwara Guru Granth Sahib Bhuntar". It has further been held in para-22 that Civil Courts have no jurisdiction in the matter. Hence, as per para-23 of the judgment and decree, the appeal was allowed and the judgments and decrees of the learned Courts below were set aside. Therefore, the property in question can never be said to have been ever owned or possessed by Gurudwara Guru Granth Sahib Bhuntar. The substantial questions of law were accordingly answered. Consequently, as on date, there is no legal entity by the name of Gurudwara Guru Granth Sahib Bhuntar or Granth Sahib Bhuntar. Thus, it cannot own or claim any property much less the built up structure No. 35 of Yagya Chand, or the awarded compensation qua acquisition of the same, by the National Highways Authority of India, which is the subject matter of present petition. Coordinate Bench in afore RSA has categorically held that provisions of S. 7 and 8 of Sikh Gurudwara Act were not followed.

32. Consequently, the judgment and decree of learned District Judge impugned in RFA No. 240 of 2016 cannot be said to have any

High Court of H.P.

::: Downloaded on - 31/10/2026 15:20:10 :::CIS

bearing on rights of petitioner Yagya Chand to claim the awarded compensation in the sum of Rs. 66,66,000/- which stands deposited with the State Bank of India, Pandoh along with interest accruing thereupon. Petitioner is also entitled to a sum of Rs. 1,66,650/- along with interest which has not been deposited by National Highways Authority of India (respondent No. 3).

33. In case titled **Union of India versus Tarsem Singh, (2019) 9 SCC 304**, the Hon'ble Apex Court has held that a person whose property is acquired under the National Highways Act cannot be subjected to discriminatory or unfair treatment in the matter of compensation. The principle set up by the Hon'ble Apex Court that compensation for compulsory acquisition must be just and fair supports the petitioner's submission that compensation for the acquired structure must be released to the person legally entitled to it.

34. Otherwise also, precise case of respondent No. 4 is that till the time ownership dispute is finally decided, no compensation should be released to Yagya Chand (petitioner herein), because the acquired property is claimed by the religious trust-Guru Granth Sahib and the related matter is still pending. However, as has been taken note of above, Coordinate Bench of this Court in RSA No. 129 of 1997 dated 03.09.2021 has already

High Court of H.P.

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2026:HHC:45916

held the constitution of the management of Gurdwara Guru Granth Sahib to be bad in law and the suit filed in that regard by the so called trustee, respondent No. 4, has been returned.

35. Consequently, in view of the detailed discussion made hereinabove, this Court finds merit in the petition and accordingly the same is allowed. Respondent No. 1 is directed to release the compensation awarded vide supplementary award No. 113/4 dated 22.05.2018 (Annexure PD) i.e. Rs.66,66,000/-, qua the structure/building in favour of the petitioner along with sum of Rs. 1,66,650/- with up-to-date interest expeditiously, preferably within a period of three weeks along with up to date interest. In the aforesaid terms, present petition is disposed of along with pending applications, if any.

October 16, 2026 **(Sandeep Sharma),**
(manjit) **Judge**

High Court of H.P.

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