IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-24608-2026

KRISHAN GOPAL …Petitioner(s)

Versus

STATE OF PUNJAB AND OTHERS …Respondent(s)

1.	The date when the judgment is reserved	26.08.2026
2.	The date when the judgment is pronounced	14.10.2026
3.	The date when the judgment is uploaded on the website	14.10.2026
4.	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced	Full
5.	The delay, if any, of the pronouncement of full judgment, and reasons thereof	Not Applicable

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present:- Mr. Vijay Kumar Jindal, Senior Advocate with
Mr. Shailendra Singh Momi, Advocate,
Mr. Abhishek Shukla, Advocate and
Mr. Yashvardhan Goyal, Advocate for the petitioner.

Mr. Eklavya Darshi, Deputy Advocate General, Punjab.

Mr. Kanwaljit Singh, Senior Advocate with
Ms. Muskan Sharma, Advocate, Mr. I.P.S. Deol, Advocate,
Mr. V. I. S. Gill, Advocate for respondents no.4 and 5.

TRIBHUVAN DAHIYA, J.

The petition has been filed seeking a writ of *certiorari* setting aside the order dated 02.09.2025, Annexure P-21, passed by the Additional Deputy Commissioner-cum-Collector, SAS Nagar, Mohali, under the Punjab Religious Premises and Land (Eviction and Rent Recovery) Act, 1997 (for short, 'the 1997 Act'). As also the order in appeal dated 08.05.2026, Annexure P-24, passed by the Commissioner, Rupnagar Division. Further, a direction has been sought to the official respondents to protect and maintain the

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petitioner's possession over the land in question situated at village Nabha, Tehsil Dera Bassi, District SAS Nagar, Mohali.

2. Facts of the case in brief are that respondent no.4/Mahant Dera Udasiyan and respondent no.5/ Dera Udasiyan, (shown in the revenue record as Langar Waka Deh, village Nabha, Tehsil Derabassi, District SAS Nagar, Mohali) initiated proceedings under Sections 5 and 6 of the 1997 Act seeking eviction of the petitioner and vacant possession of the land in dispute. It was pleaded that the disputed land measuring 249 bighas 4 biswas comprising in khewat nos. 260, 49 khatoni no.292, 50 khasra nos. 502 to 550, 641 to 651, situated at village Nabha is a religious premises - Dera Udasiyan, which is a juristic person and owner of the said land. The last Mahant of this Dera was Braham Dass, who died on 09.01.1999. Respondent no.4 is the only chela/disciple of Braham Dass and the duly appointed Mahant of the Dera, comprising of properties at two villages, viz., Nabha and Ramgarh Budha, at SAS Nagar, also known as Dera Nabha and Dera Ramgarh Budha, respectively. This has been so declared by the Civil Judge (Junior Division), Dera Bassi, vide judgment and decree dated 21.07.2012, Annexure P-1, deciding three civil suits jointly - (i) a suit for declaration and permanent injunction filed by the petitioner titled *Mahant Krishan Gopal Dass* v. *Darshan Singh alias Darshan Dass*, (ii) a suit for declaration and possession also filed by the petitioner titled *Mahant Krishan Gopal Dass* v. *Darshan Singh alias Darshan Dass* and (iii) a suit for declaration and permanent injunction filed by respondent no.4 titled *Darshan Singh alias Darshan Dass* v. *Mahant Krishan Gopal Dass*. Two suits filed by the petitioner were dismissed, whereas the one filed by respondent no.4 was decreed, which was later affirmed by the Supreme Court on 21.11.2016. Vide this judgment,

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CWP no: PHHC010157AA2025S
2025:PHHC:188088

respondent no.4 was declared to be the Mahant of Dera Udasiyan and chela of Braham Dass, entitled to manage the affairs and administration of both the properties - Dera Nabha and Dera Ramgarh Budha.

2.1. The major part of the suit land is agricultural, wherein apart from residential house, worship places of idols also exist, which the petitioner claimed to be in his possession of. It was alleged that AKM Resort and Banquet Hall (respondents no.7 and 8) was in possession of land in khasra no.538, and some part of khasra no.539, which had been sub-let to it by the petitioner. Also, suit land comprising in khasra no.643, 651 was stated to have been sub-let to respondent no.6/Deshraj. It was also pleaded by respondents no.4 and 5 that the petitioner was not paying any lease, *chakota* or rent to them. And that he as well as respondents no.6 to 8 were in illegal and unauthorised possession over the suit land.

2.2. After hearing the parties, the petition was accepted by the Additional Deputy Commissioner-cum-Collector, vide impugned order dated 02.09.2025, directing the petitioner, who was found to be in unauthorised possession, to hand-over vacant possession of the land in dispute to respondents no.4 and 5. Relevant extract of the order reads as under:

> After hearing the counsels for both parties, examining the record available on the file and keeping in view the decisions of the Civil Courts, this learned Court has been reached at the conclusion that petitioner number 2 is the owner of the land in dispute and petitioner number 1 is its Mohtamim (manager), who looks after the maintenance and day-to-day affairs. The decision regarding the Mohtamim has already been passed by the Ld. Civil Court. The respondent party do not possess any proof or decision if any passed by Ld. Civil Court from which they may be able to prove their ownership on this land and even did not presented any lease or rent deed with regard to the rate of

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CWP No: PHHC010457AA2026S
2026:PHHC:148888

rent. As per the report, the respondent is in possession of 160 Bighas and besides this, as per the report, a resort has been constructed on 4 Bighas 4 Biswas land. From this, it is evident that the Dera is situated in village Nabha, which is confirmed by the report of the S.D.M. Besides this, a Gair Mumkin house and Samadh Dera has been constructed on an area of 3 Bighas 15 Biswas. Further as per report of Halqa Patwari, the prevailing annual rent/lease of this agricultural land per acre in Nabha village is from Rs.30 to 35 thousand. Therefore, for the 160 Bighas which is under the illegal possession of respondent number 1, the annual rent/lease has been fixed at Rs. 30,000 by the learned court due to the possession being illegal. Respondent number 1, who have to pay the same to petitioner number 1 and 2, shall be bound to pay the same starting from 3 years prior to the date of filing of the application until the possession is handed over to the applicant. Besides this, according to the report, the annual rent of the resort is Rs.2 lakh, which he shall be bound to pay from 3 years prior to the date of filing the application until the day the possession is transferred. Subsequently, the application is allowed. Petitioner number 1 is directed that upon recovery of the above said amount, he shall keep it in an account of a nationalized bank and will be able to utilize the above said amount in complete respect, dignity and according to the rules of the Dera, regarding which a complete account of financial records shall be maintained. If Darshan Das commits any negligence regarding any kind of wasteful expenditure or improper expenses, then action can be initiated in that regard. Along with this, the respondent party is directed to pay the rent of the past three years within three months from the date of issuance of this order and to hand over the vacant possession of the land in dispute to the applicant party, failing which action regarding the recovery of the remaining rent of the land in dispute as land revenue will be initiated and a warrant of possession will be issued to get vacant possession of the land.

AMAN DUA
2026.10.14 11:44
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Order has been pronounced. After due compliance and completion, the file be consigned to the record room.

2.3. Aggrieved against the aforesaid order, the petitioner filed an appeal before the Commissioner under Section 8 of the 1997 Act, which was dismissed vide impugned order dated 08.05.2026. Thereupon he has approached this Court challenging these two orders.

3. In this factual background, learned senior counsel for the petitioner has raised two submissions. *Firstly*, he contended that the impugned orders are without jurisdiction as the 1997 Act provides for eviction of unauthorised occupants only from a religious institution as defined under Section 2(d), which has to be registered under the Societies Registration Act, 1860 (for short, 'the 1860 Act'), or established under any statute. And the Dera Udasiyan is neither a registered body, nor an institution established under any statute. Accordingly, the eviction petition filed under Sections 5 and 6 of the 1997 Act was not maintainable, nor could the impugned orders of eviction and recovery of rent have been passed by the authorities concerned. The issue of jurisdiction was, however, not considered by the Commissioner on the ground that it had not been raised before the Collector. This is factually wrong, as the petitioner did take this plea before the Collector as well as the Commissioner, and had also filed an application under Order VII Rule 11 CPC for rejection of the petition on this account, but the same was not decided for no reason. Besides, being a legal issue, it can be raised at any stage of the case. He has relied upon the Supreme Court judgment in *P. Nazeer v. Salafi Trust and another,* (2022) SCC Online SC 382, to hammer the point that even if parent body of the Dera is a registered Society, the Dera, which is only a branch, is not entitled to file the eviction petition being unregistered. *Secondly*, he contended that in the civil suit filed by respondent no.4 seeking a

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2026.10.14 11:44
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declaration that he was Mahant of the Dera, he had also sought the consequential relief of permanent injunction restraining the defendant (petitioner herein) from forcibly dispossessing him from the suit land. Having asserted his possession over the suit land, which was never established, he cannot turn around and seek the petitioner's eviction from that very land by invoking provisions of the 1997 Act; this is impermissible in terms of the principles laid down under Order II Rule 2 CPC. In case respondent no.4 was not in possession, he was required to claim it by filing a suit for possession being the appropriate remedy, which he never did and disentitled himself from claiming the relief anything in future. No other submission has been made.

4. *Per contra*, learned senior counsel for respondents no.4 and 5 contends that the Dera is a registered body and entitled to file the eviction petition under the 1997 Act. This Dera is a branch of *Punch Parameshwar Panchayati Akhara Bara Udasin* (for short, 'the Akhara'), which is a society registered under the 1860 Act; as apparent from its registration renewal certificate dated 11.12.2025, Annexure R-4/1, issued by the competent auhtority. As per Memorandum of the Akhara, Annexure R-4/2, its head office is at Allahabad (rechristened as Prayagraj now), with branches in the States of Uttar Pradesh, Bihar, Punjab, etc. In the Punjab its branch is situated at Patiala (of which SAS Nagar, Mohali, was a part earlier). The Memorandum also provides that management of the head office and its branches shall be by Asthania Mahants (Mokamis). It further provides that all the affairs and the properties, both movable and immovable, and cash belonging to the Akhara shall remain in the sole charge of the Asthania Mahants of the head office or any of its branches, as the case may be, for and on behalf of the Akhara. And in all judicial or non-judicial proceedings

AMAN DUA
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concerning the head office or any of its branches, the Akhara shall be represented by all or any of the Asthania Mahants of the place concerned. It remains undisputed that respondent no.4 is the Mahant of the Dera. Therefore, in terms of the Memorandum he is entitled to manage all the affairs of its properties, and institute eviction proceedings under Sections 5 and 6 of the 1997 Act. It is also contended that the factum of the Dera being a branch of the Akhara has already been admitted by the petitioner before the trial Court in the aforementioned suits and, therefore, he cannot be permitted to take a stand to the contrary before this Court. *Secondly*, learned senior counsel contended that the trial Court vide judgment dated 21.07.2012, decided three suits together; two filed by the petitioner and one by respondent no.4 with regard to the Deras at Nabha as well as Ramgarh Budha. Respondent no.4 was found to be in possession of land measuring 28 bighas and 19 biswas at Dera Ramgarh. However, possession of the petitioner or that of respondent no.4 over the lands at Dera Nabha measuring 249 bighas could not be established. The findings are only to the effect that respondent no.4 duly proved his appointment as Mahant of the Dera at Nabha as well as Ramgarh Budha and was entitled to manage all the affairs of both the properties, but failed to prove his possession over the lands at Nabha/suit land. At the same time, the petitioner's possession over the suit land could also not be proved. In these circumstances, respondent no.4 and 5 were within their rights to invoke the remedy under the 1997 Act for eviction of the petitioner from the suit land, and they cannot be non-suited on account of not filing a suit for possession earlier.

5. Submissions made by learned counsel for the parties have been considered.

AMAN DUA
2026.10.14 11:44
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6. The status of respondent no.4 as chela of Braham Dass and duly appointed Mahant of Dera Udasiyan, viz., Dera Nabha and Dera Ramgarh Budha, entitled to manage the affairs of both the properties as such, stands finally settled vide judgment and decree dated 21.07.2012, passed by the Civil Judge (Junior Division), Dera Bassi, which has been affirmed by the Supreme Court. While deciding his appointment the trial Court had consolidated three suits filed on the same issue, two by the petitioner (bearing nos.47 and 47A) and one by respondent no.4 (bearing no.47B). The two suits filed by the petitioner were dismissed, and the one by respondent no.4 was decreed, declaring him to be the duly appointed Mahant, and his possession over the Dera properties at Ramgarh was also confirmed. The findings to that effect are as under:

> 35. On the basis of discussion made above and findings returned on the issues of all the three suits above, the first and second suit of the plaintiff Mahant Krishan Gopal Dass fail and dismissed and the third suit of the plaintiff Darshan Dass succeeds and decreed for declaration to the effect that Darshan Dass @ Darshan Singh is Mahant and Chela of Braham Dass now deceased who was duly appointed for the proper administration of the Deras as fully detailed and described in the head note of the plaint of Civil Suit no.47B dated 24.09.2002. Further the suit of the plaintiff is also decreed for permanent injunction and defendant Mahant Krishan Gopal Dass is restrained from forcibly dispossessing Darshan Dass plaintiff from the suit land measuring 28 bighas 19 biswas as fully detailed and described in the head note of the plaint of third suit or otherwise in the working of plaintiff Darshan Dass as Mahant and administrator. Decree sheet be prepared and file be consigned to the judicial Record Room.

AMAN DUA
2026.10.14 11:44
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6.1. Evidently, neither the petitioner nor respondent no.4 could establish possession of the land in dispute of Dera Nabha, though the latter was held to be in exclusive possession of the land of Dera Ramgarh Budha measuring 28 bighas 19 biswas, in respect whereof a decree of permanent injunction restraining the petitioner from interfering with his possession was issued. No such injunction could be granted regarding the remaining land at Dera Nabha, which is in dispute here. At the same time, respondent no.4 was held entitled to manage the affairs of both the Dera properties at Nabha and Ramgarh, being the Mahant Mohitmim of the Dera Udasiyan. It was, therefore, open for respondents no.4 and 5 to assert their right of possession over the land in dispute and seek removal of an unlawful occupant therefrom, which they chose to do under the 1997 Act. It is a special enactment, and provides for eviction of an unauthorised occupant of a religious premises based upon the statutory grounds available thereunder, by way of summary proceedings. Sections 4, 5 and 12 of the 1997 Act can be referred to in this regard:

> 4. Issue of notice to show cause against order of eviction.
>
> (1) On an application made by a Religious Institution, if the Collector is of opinion that any persons are in unauthorised occupation of any religious premises situate within his jurisdiction and that they should be evicted, the Collector shall issue in the manner hereinafter provided, a notice in writing calling upon all persons concerned to show cause why an order of eviction should not be made.
>
> (2) and (3) xxx xxx xxx
>
> 5. Eviction of unauthorised persons.
>
> (1) If, after considering the cause, if any, shown by any person in pursuance of a notice under section 4 and any evidence he may produce in support of the same and after

AMAN DUA
2026.10.14 11:44
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giving him a reasonable opportunity of being heard, the Collector is satisfied that the religious premises are in unauthorised occupation, the Collector may make an order of eviction, for reasons to be recorded therein, directing that religious premises shall be vacated, on such date not being the date beyond the period of forty-five days from the date of receipt of application by him under section 4 and as may be specified in the order by all persons who may be in occupation thereof or any part thereof, and cause a copy of the order to be affixed on the outer door or some other conspicuous part of the religious premises or of the estate in which the religious premises are situated.

(2) If any person refuses or fails to comply with the order of eviction within thirty days of the date of order made under sub-section (1), the Collector or any other officer duly authorised by him in this behalf may evict that person from and deliver the possession of the religious premises to the concerned Religious Institution and, may for that purpose, use such force as may be necessary.

6 to 11 xxx xxx xxx

12. Bar of jurisdiction.

No court shall have jurisdiction to entertain any suit or proceeding in respect of the eviction of any person who is in unauthorised occupation of any religious premises or the recovery of the arrears of rent payable under sub-section (1) of section 6 or the damages payable under sub-section (2) of that section or the costs awarded to Religious Institution under sub-section (5) of section 8 or any portion of such rent, damages or costs.

6.2. Apparently, under sub-section (1) to Section 4 if the Collector is of the opinion that any person is in unauthorised occupation of any religious premises within his/her jurisdiction who needs to be evicted, a show cause notice for eviction can be issued to such a person. And as per sub-section (1)

AMAN DUA
2026.10.14 11:44
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CWP-24608-2026:PHHC:188088

to Section 5, if after affording due opportunity of hearing and considering the person's response/evidence the Collector is satisfied that the religious premises is in unauthorised occupation, the order of eviction can be passed and possession thereof be taken. Accordingly, the Collector while exercising powers under the 1997 Act acts as a Tribunal, and the Act provides an independent exclusive remedy of seeking eviction to a religious institution by way of summary proceedings for a distinct cause of action, that is, unauthorised occupation of its premises. Therefore, the Tribunal is not a regular civil court, and has been set up for a separate statutory cause made available to a religious institution. Section 12 of the 1997 Act creates a bar on the civil court to entertain a suit or proceeding for eviction of any person who is in unauthorised occupation of any religious premises, or for recovery of arrears of rent, etc. Meaning thereby, filing the petition before the Collector for eviction of the petitioner from the land in dispute was the only remedy available to respondent no.5/the Dera which had been rightly exercised, as it could not have gone to the civil court seeking the eviction. Respondent no.5, therefore, cannot be non-suited on the principles of Order II rule 2 CPC, as contended by learned senior counsel for the petitioner, for the reason the same has no application to the facts and circumstances of the instant case. Order II Rule 2 CPC prevents multiplicity of suits but does not bar claims based on distinct causes of action. It lays down that a party to a suit must include the entire claim arising from a cause of action, and its failure to do so amounts to relinquishment of the claim so left-out, for which no subsequent suit can be entertained.

6.3. True import of the law contained in this provision has been explained by the Supreme Court in *Cuddalore Powergen Corporation Ltd.* v.

AMAN DUA
2026.10.14 11:44
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Chemplast Cuddalore Vinyls Limited and another, 2025 SCC OnLine SC 82, holding as under:

> 73. Order II Rule 2(1) reads that - "every suit shall include the whole of the claim which the plaintiff is entitled to make in respect of the cause of action…". Similarly, Order II Rule 2(3) reads that - "A person entitled to more than one relief in respect of the same cause of action may sue for all or any of such reliefs…". It is necessary that the same intention also be read into Order II Rule 2(2) which reads that - "where a plaintiff omits to sue in respect of, or intentionally relinquishes, any portion of his claim, he shall not afterwards sue in respect of the portion so omitted or relinquished". The phrase "any portion of his claim" must essentially be understood to mean any portion of his claim which he is entitled to make for the simple reason that there cannot be a deliberate or intentional relinquishment of any portion of a claim, if the plaintiff was not entitled to it. *Therefore, the true import of the bar under Order II Rule 2 must be that it operates to preclude a plaintiff from instituting a second suit, on the same cause of action, for a claim, any portion of a claim, or reliefs, which the plaintiff was entitled to avail at the time of filing of the first suit.* (italics by this Court)

The mandatory requirement, consequently, is that the claim must arise from the same cause of action. The earlier suit filed by respondent no.4 before the Civil Court was for a declaration that he was the duly appointed Mahant and chela of Braham Dass authorised to administer and manage the Deras including their properties; consequential relief of permanent injunction was also prayed against the petitioner with respect to those properties. The declaration was sought on the ground that he had been appointed as chela of Braham Dass during the latter's lifetime, and thereafter Mahant/Mahtmim of the Dera by performing the Udasi Bhekh ceremony in accordance with the prevailing customs on 28.02.1999. The suit was decreed and the declaration

AMAN DUA
2026.10.14 11:44
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CWP no: PHHC010157AA2026
2026:PHHC:188088

sought by respondent no.4 was granted in his favour. However, the decree for permanent injunction with respect to the land in question could not be granted as he was not found to be in continuous possession. At the same time, his entitlement to be in possession of the said land and manage its affairs stood affirmed by the decree of declaration, as against the petitioner. This gave him the right to seek possession by eviction of the unauthorised occupant from the land in question, being the Mahant. This was a fresh cause that arose after the grant of declaration. Additionally, as already discussed, jurisdiction under the 1997 Act for eviction of the petitioner from the Dera premises/land could only be invoked by the Dera, being a religious institution, which it rightly did by filing the eviction petition before the Collector. The Dera had not filed the earlier suit for declaration and permanent injunction. On this account also, the principles of Order II Rule 2 CPC would not apply. In raising the argument to the contrary learned senior counsel for the petitioner has conflated two distinct entities - the Dera and the Mahant - into one, which is palpably wrong and impermissible. The argument is a result of misconception of facts and therefore unacceptable. Further, the petitioner's right to be in possession of the Dera land has not been established. He claims possession being a chela of Braham Dass which has no basis after the declaration having been issued to that effect in favour of respondent no.4 by the civil court. Therefore, he was rightly considered an unauthorised occupant and ordered to be evicted.

7. Concomitant issue arising for consideration is, whether respondent no.5 is a religious institution under the 1860 Act, and entitled to file the eviction petition. Section 2 (d) and (e) of the 1997 Act may be referred to for that purpose which are as under:

2. In this Act unless the context otherwise requires:

AMAN DUA
2026.10.14 11:44
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(a) to (c) xxx xxx xxx

(d) "Religious Institution', means any gurdwara, temple, church, mosque, temple of Jains or Budhas - which is registered under the provisions of the Societies Registration Act, 1860 (Central Act No. XXI of 1860) or is established under any statute and includes any other place of worship by whatever name, it may be called, which is registered as aforesaid or is established under any statute;

(e) "religious premises" means any land whether used for agricultural or non-agricultural purposes, or any building or part of a building belonging to a Religious Institution and includes,-

(i) and (ii) xxx xxx xxx

Ostensibly, a religious institution has been defined to mean any Gurudwara, Temple, Church, Mosque, etc. which is a registered body under the 1860 Act or has been established under any statute. It also includes any other place of worship by whatever name it may be called, which has been registered as such or established under any statute. As per the registration certificate, dated 11.12.2025, the Akhara is a registered body under the 1860 Act. The Memorandum of the Akhara duly records that one of its branches is situated in the erstwhile Patiala district (present day SAS Nagar), which is respondent no.5 herein. The Memorandum further provides that Mahant/Mokami of any of its branches is authorised to institute a suit concerning movable and immovable properties of the Akhara, and in such proceedings the head office or the branches of the Akhara shall be represented by Mahant/Mokami of the place concerned. The relevant extract of the Memorandum reads as under:

Constitution:-

The Head Office of the Panchayati Akhara Bara Udasi is at present at Allahabad and its branches are as shown below:-

AMAN DUA
2026.10.14 11:44
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CWP-24608-2026:PHHC:188888

The General Body of the Mahants may change the Head Office and may establish any new Branches if it so decides in a general sitting.

1. Benares – Mohalla Bhadeni, 2. Kankhal – Saharanpur District (UP), 3. Gaya – Mohalla Sahibganj (Behar), 4. Sultanganh, Bhagalpur District, 5. Asarganj – Monghy District, 6. Pratap Tanda – Muzafffarpur District, 7. Gopigunj (Banaras State), 8. Balia (UP), 9. Brindraban Muttra District 10. Patiala (Patiala State) (now part of the State of Punjab), 11. ...

Management:-

(1) and (2) xxx xxx xxx

(3) The entire management of all the affairs and the properties both moveable, immoveable and cash at the Head Office and at the Branches shall remain in the sole charge of the Asthania Mahants (Mokamis) of such places, collectively and individually. The management subject to local circumstances and conditions if any shall be carried on in the following manner:-

(a) and (b) xxx xxx xxx

(c) All suits arising out of moveable and immoveable properties belonging to the Akhara shall be filed by the Asthania Mahant (Mokami) of the Head Office or of any of the Branches as the case may be for and on behalf of the Akhara. The powers as are provided under Act XXI of 1860 (Societies Registration Act) are entrusted to the Asthania Mahants (Mokamis) of the Head office or of the Branches where the disputed property is situated or the money transaction has occurred. In all judicial and non-judicial proceedings concerning the Head Office or any of the branches the Akhara shall be represented by all or any of the Asthania Mahants (Mokamis) of the place concerned.

Since the eviction petition in question has been filed by respondent no.4, who is Mahant/Mokami of the Dera, which is a branch of the Akhara, and respondent no.5, the Dera itself, it is permissible in terms of the Memorandum, as aforementioned. Accordingly, they were within their rights

AMAN DUA
2026.10.14 11:44
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to invoke provisions of the 1997 Act as branch of the Akhara which is a registered body. And the petition was rightly entertained by the authorities concerned.

7.1. It is also apposite to mention that the factum of the Dera being a branch of the Akhara stands admitted by the petitioner (plaintiff in the civil suits mentioned hereinbefore), which has been recorded in the trial Court judgment dated 21.07.2012 as under:

> 27. …From the whole cross-examination of the plaintiff Krishan Gopal it is clear that plaintiff Krishan Gopal has admitted some facts which are as under:-
>
> 1. That Dera Langer Vaka Nabha Sahib Sh. Panchayiti Akhara Barra is under Udasin and bheikh ceremony is performed by Sant Samaj and Sh. Panchayiti Akhara Barra Udasin Nirman.
>
> 2. On 25.1.1999 this Akara was at Kalajahar Distt. Sangrur on the occasion of Rasam Mahanti of Mahant Manmohan Dass.
>
> 3. Krishan Gopal plaintiff in his cross-examination also admitted that on 28.2.1999 bheikh ceremony was performed at village Ramgarh Bhudha under bheikh Sh. Panchayati Akhara Barra Udasin and he was present their(there) in the complete ceremony.
>
> 4. to 6. xxx xxx xxx

7.2. *P. Nazeer* case (*supra*) relied upon by learned senior counsel for the petitioner does not come to the petitioner's rescue; rather, it discredits his case. The judgment does not disentitle a local unit or branch of a registered society from instituting a suit or proceedings, as contended by him. Instead, it holds that a local units or branch of a registered society can institute a suit when it is duly authorised to do so in terms of bye-laws of the society, and that is exactly the case in the instant petition. The Memorandum of the Akhara authorises Mahant/Mokami of its branch/Dera, who is respondent no.4, to

AMAN DUA
2026.10.14 11:44
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CWP-24608-2026:PHHC:188088

institute the suit or proceedings in respect of its movable and immovable properties. The relevant paragraph of the judgment to that effect is as under:

> 15. The aforesaid finding is completely contrary to law. A society registered under the Societies Registration Act is entitled to sue and be sued, only in terms of its bye-laws. The bye-laws may authorise the President or Secretary or any other office bearer to institute or defend a suit for and on behalf of the society. Under section 6 of the Societies Registration Act, 1860, "every society registered under the Act may sue or be sued in the name of President, Chairman, or Principal Secretary, or trustees, as shall be determined by the rules and regulations of the society and, in default of such determination, in the name of such person as shall be appointed by the governing body for the occasion". Even the Travancore-Cochin Literary, Scientific and Charitable Societies Registration Act, 1955, which is applicable to parts of Kerala carries a similar provision in section 9. Therefore, unless the plaintiff in a suit which claims to be a society, demonstrates that it is a registered entity and that the person who signed and verified the pleadings was authorised by the bye-laws to do so, the suit cannot be entertained. The fact that the plaintiff in a suit happens to be a local unit or a Sakha unit of a registered society is of no consequence, *unless the bye-laws support the institution of such a suit*. (italics by this Court)

8. In view of the discussion, there is no merit in the petition and it is hereby dismissed.

(TRIBHUVAN DAHIYA)
JUDGE

14.10.2026
Ad

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*

AMAN DUA
2026.10.14 11:44
I attest to the accuracy and
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