

bringing the mistake to the attention of the court. He granted a faculty for the exhumation and reburial of H in the churchyard with the costs of this process, and the court costs, to be paid by the incumbent. [WA]

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### **Re St Dunstan, Cheam**

Southwark Consistory Court: Petchey Ch, April 2010

*Church hall – disused burial ground*

In granting a faculty for the erection of a hall as a separate building falling partly within the consecrated churchyard and partly outside, the chancellor considered whether section 2 of the Disused Burial Grounds Act 1884 had the effect of preventing the construction of the hall. The section states ‘It shall not be lawful to erect any buildings upon any disused burial ground, except for the purpose of enlarging a church, chapel, meeting house, or other place of worship.’ The chancellor found that, whilst the churchyard was no longer used for the interment of bodies, it was still used for the interment of cremated remains and had not been closed by Order in Council. The 1884 Act did not, therefore, apply. [WA]

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### **Re St Michael and All Angels, Sandhurst**

Arches Court of Canterbury: George, Dean, May 2010

*Leave to appeal – Human Rights Act – memorials – ‘Gypsy way of life’*

At a hearing to determine four petitions in relation to the same churchyard, the chancellor had refused a faculty for the erection of a memorial over the grave of the applicants’ son and granted one for the reservation of the adjoining gravespaces for the applicants. He stated that the reservation and any future permission for a headstone would be conditional upon no unauthorised items or memorials being placed on the grave or reserved gravespaces. The proposed memorial was outside the diocesan churchyard regulations in a number of respects, including the size, material and shape of the headstone, the inclusion of kerbs and the use of an etched photograph and coloured paint. After the refusal the memorial was unlawfully erected in the churchyard. The chancellor adjourned the hearing of the archdeacon’s application for the removal of the memorial to enable the applicants to seek leave to appeal out of time to the Court of Arches and to seek a declaration of incompatibility under the Human Rights Act 1998 in the High Court. Upon the applicants’ application to the Court of Arches the Dean approved the chancellor’s decision to hear

the four petitions at the same hearing as ‘eminently sensible’. He rejected the argument that the chancellor’s decision breached Article 8 of the ECHR and, in referring to *Chapman v UK* (2001) 3 EHRR 18, he held that the use of a particular design of memorial was not required to ‘facilitate the gypsy way of life’. The Dean further rejected the submission that the imposition of conditions in relation to the leaving of unauthorised items was discriminatory or draconian. He refused leave to appeal on the basis that there was no real prospect of success and no other compelling reason for the appeal to be heard. [RA]

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### **His Holiness Sant Baba Jeet Singh Ji Maharaj v Eastern Media Group and Singh<sup>2</sup>**

High Court, Queen’s Bench Division: Eady J, May 2010  
*Defamation – justiciability – Sikh doctrine and practice*

The claimant, who was based in India and claimed to be a Sikh leader, brought a defamation action against the author and publisher of an article in the Sikh Times which was said to be damaging to the claimant’s reputation. The article alleged, *inter alia*, that the claimant was the leader of a cult who acted contrary to true Sikh teachings and that he falsely sought to pass himself off as a true heir to a Sikh saint and to profit personally from his position. The author sought a stay of the claim on the basis that it was non-justiciable as it required the court to rule upon matters of Sikh doctrine and practice, contrary to a consistent line of legal authority. In granting a stay, Eady J relied upon the decision of *Blake v Associated Newspapers* [2003] EWHC 1960 (QB). He rejected the argument that the allegation that the claimant was an ‘impostor’ was justiciable independently of any matters of Sikh doctrine or practice. He held that the issue of whether the claimant could fairly be described as an impostor could not be isolated and resolved without reference to such matters into which the civil courts should not trespass. [RA]

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2 [2010] EWHC 1294 (QB).