

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 1614 of 2015

Date of decision: 04.03.2015

Smt. Veena Rani

... Petitioner

versus

Punjab Wakf Board and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Pawan Kumar, Senior Advocate with
Mr. Anshuman Mandhar, Advocate for the petitioner.

K.Kannan, J.

The order assailed is the order in an application filed by the wife of the judgment debtor contending that the case was disposed of without considering the case on merits. The contention is that a decree for possession obtained before the Wakf Tribunal was incompetent and cannot be executed. The learned senior counsel relies on the judgment of the Hon'ble Supreme Court in Faseela M. Vs. Munnerul Islam Madrasa Committee and another, 2014 (104) ALR 758, which held that Section 6 and 7 of the Wakf Act only confer exclusive jurisdiction of the Wakf Tribunal for determination of certain disputes regarding Wakf and will also take jurisdiction of the Civil Court away in respect of such disputes.

If a property were to be adjudicated as whether it is Wakf or not such an adjudication will be rendered only under Section 6 of the Wakf Act. The counsel states that an ejectment suit of admitted Wakf property could not have been filed before the Wakf Tribunal. The judgment debtor has suffered an order and if that order is sought to be put in execution, in my view it will no answer for a wife of a judgment

debtor to make an objection through an application and seek for an adjudication. If the petitioner has no other claim than to contend that it is a Wakf property, I will find that there is no scope even for an adjudication relating to whether the property is liable for ejectment or not. If the petitioner does not have any independent right to even canvas but would make an issue relating to jurisdiction of the Tribunal to execute the decree, I will not allow that to go through an application by the wife of the judgment debtor. I find this to be an illustration of active collusion between the judgment debtor and his wife and if such an application was not entertained by the Tribunal in an execution petition of its own order, I will find no scope for an intervention.

Learned senior counsel states that he will be satisfied if sufficient time is granted to vacate the premises. I will not entertain such a plea at the instance of the person who does not have any independent right than what the judgment debtor claims. Learned counsel relies on a rough plan drawn by a local architect showing the property to be in her possession. I take that to be a possession as a member of the family of the judgment debtor and even a plan drawn by local architect cannot obtain any immediate relevance for making an intervention in favour of the petitioner.

Civil revision is dismissed with the above observation.

(K.KANNAN)
JUDGE

04.03.2015

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