

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CR No. 294 of 2015
Date of decision : 14.1.2015**

Davinder Kumar

.....Petitioner

v.

The Punjab Wakf Board, Chandigarh

.....Respondent

CORAM : HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present : Mr. Pankaj Bhardwaj, Advocate, for the petitioner

Rakesh Kumar Jain, J.

This revision petition is against the order dated 9.12.2014, dismissing the application of the petitioner qua amendment of the written statement.

Learned counsel for the petitioner has submitted that at the time of filing of the written statement, it was not in the knowledge of the petitioner that there was a dispute between the plaintiff and the Cantt Board, Ferozepur with regard to the ownership of the property in dispute, as the suits filed by the Punjab Wakf Board are pending in other Courts and thus, prayer was made in the application for amendment of the written statement to make the following averments :-

“Preliminary objection No. 11 :

11. That there is a dispute between Punjab Wakf Board and Cantt Board regarding the ownership of the property. The Punjab Wakf Board alleges that the property in dispute belongs to it whereas Cantt Board alleges that the property in dispute belongs to the Central Government and is under the

management and control of Cantt Board and Punjab Wakf Board has no right, title or concern with the same, meaning thereby that the question of title is still pending between Punjab Wakf Board and Cantt Board regarding the ownership of the property and until and unless the Punjab Wakf Board is declared as owner, Punjab Wakf Board is not competent to file the present suit.”

Preliminary object No. 12 :

12. That the defendant had not taken the possession from Punjab Wakf Board, rather the possession of the house was taken by the defendant from its previous occupier and thereafter the defendant had obtained the lease from Punjab Wakf Board.”

Preliminary Object No. 13 :

13. That at the time of executing the lease deed by Punjab Wakf Board in favour of the defendant, Punjab Wakf Board had not informed that the question of title is still pending between Punjab Wakf Board and the Cantt Board.”

Preliminary objection No. 14 :

14. That at the time of execution of the lease deed signatures of the defendant were obtained on an alleged agreement for taking the property on lease, but those documents were not read over and explained to the defendant.

Preliminary object No. 15 :

15. That before taking any legal proceedings against the occupiers of the property in dispute, the question of title is required to be decided between Punjab Wakf Board and Cantt Board.”

Preliminary objection No. 16 :

16. That in case Punjab Wakf Board and Cantt Board do not decide the question of title before deciding the present suit, then in that event, the defendant will file interpleader suit against Punjab Wakf Board as well as against Union of India and the Cantt Board, Ferozepur for getting the question of title

decided and till then the present suit is prematured and is liable to be stayed.”

However, the application of the petitioner was dismissed by the learned trial Court on the ground that since the petitioner is in possession by virtue of a lease granted by the Punjab Wakf Board which had already expired, therefore, the question as to whether the Punjab Wakf Board is the owner or Cantt Board, would not make any difference especially when the plaintiff has already concluded his entire evidence and the case is fixed for last opportunity for defendant's evidence. Learned counsel for the petitioner has vehemently argued that by way of addition of the pleadings in the written statement as stated hereinabove, the petitioner would be in a position to prove that the Punjab Wakf Board is not the owner of the property in dispute and has no right to file the suit for possession by way of eviction.

I have heard learned counsel for the petitioner and perused the record.

In so far as the petitioner is concerned, he is allegedly in possession of the land in dispute on the basis of a lease dated 31.5.2010 which was given to him for 11 months @ Rs.600/-per month. Since the petitioner had admitted that he had been a lessee in the demised premises, the lease period has already expired and he has become statutory tenant, it would hardly make any difference to him as to whether if there is a litigation between his lessor and the other party because he is not the owner of the property in dispute and has to surrender the possession, to the authority who had inducted him in possession after the expiry of the lease period and if he does not do that, the only way out for the lessor is to retrieve the possession

by way of filing suit for possession by way of eviction in accordance with law. Moreover, the suit is at the advance stage because the plaintiff has concluded his entire evidence and the defendant has also been given last opportunity to lead his entire evidence. Therefore, at this stage, the amendment which has been sought, is only to prolong the decision in the pending suit.

In view thereof, I do not find any merit in the revision petition.

Dismissed.

(Rakesh Kumar Jain)
Judge

14.1.2015
Ashwani