

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Revision No.5959 of 2015 (O&M)

Date of decision: 09.10.2015

Punjab Waqf Board

.....Petitioner

versus

Davinder Kumar and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Ghulam Nabi Malik, Advocate for the petitioner

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

Impugned in the present revision is the order dated 19.5.2015, passed by the learned Civil Judge (Junior Division), Ferozepur, vide which the application filed by Cantonment Board, Ferozepur Cantt., Defence Estate Officer, Jalandhar Circle, Jalandhar Cantt. and Central Government under Order 1 Rule 10 of Code of Civil Procedure, 1908 ('CPC') before the lower Court to implead them as party, was allowed.

Brief facts involved in the present case are the Wakf Board has filed a suit for possession against one Davinder Kumar, claiming to be the owner of the disputed property. The Central Government, Defence Estate Officer, Jalandhar Circle, Jalandhar Cantt. And Cantonment Board, Ferozepur Cantt. have filed an application claiming that the Central Government is the owner of the

disputed property and, therefore, the possession cannot be given to the plaintiff/Wakf Board. The lower Court has taken the view that if it is held that the plaintiff/Wakf Board is not the owner of the disputed property rather the Central Government is the owner, then the plaintiff cannot be delivered possession, as claimed in the suit. Therefore, it is necessary to hear the applicants. I find no illegality or infirmity in the same. If the Wakf Board claims to be the owner of the disputed property and ultimately if it is found that the Central Government is the owner of the property, the possession cannot be delivered to the Wakf Board on the ground that the Central Government is the owner of the disputed property.

Learned counsel for the revisionist has contended that if the Central Government is allowed to become a party, it will change the nature of the suit and in that case, only the Tribunal can hear the matter and not the civil court.

Here, the Wakf Board has approached the civil court claiming possession and if it is ultimately held that the Wakf Board is not the owner, the suit of the plaintiff will be simply dismissed. Therefore, the jurisdiction of the Tribunal will not come into picture.

Learned counsel for the revisionist has relied upon the authority of this Court in *Ram Pat Versus Maha Singh*, 1998 (3) RCR (Civil) 187, where in a suit for specific performance, it was held that allowing the application of a person for impleading him as a defendant will change the nature of the suit and will enlarge its scope to suit for title. Learned counsel has further relied upon the authority of the Delhi High Court in *Anita Joshi Versus Chhati Yadav and others*, arising out of CM(M) No. 468 of 2012, decided on 7.9.2012,

where in a suit for possession and recovery of rent, respondent No. 1 had claimed mere purchase of the suit premises from the petitioner, it was held that it is an independent right.

In the present case, the Wakf Board claims to be the owner of the disputed property and claims the possession from the defendants, whereas the Central Government claims that it is the actual owner and entitled to possession. Therefore, there is no error in the order of the lower Court, holding that it is necessary to hear the Central Government before deciding the matter. The revision is found to be without any merits. The same is accordingly dismissed.

09.10.2015
gk

(Kuldip Singh)
Judge