

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

**CR No.8242 of 2010 (O&M)
Date of decision: 03.09.2015**

Haji Shamsheer and others

... Petitioners

Vs.

Gian Chand and others

... Respondents

CR No.1088 of 2014 (O&M)

Haryana Wakf Board, Ambala Cantt.

... Petitioner

Vs.

Gian Chand and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. Y.P.Khular, Advocate
for the petitioners (in CR No.8242 of 2010)
for the respondents No.8 to 11 (in CR No.1088 of 2014).

Mr. Sunil Panwar, Advocate
for respondents No.1 to 4 and 7 (in CR No.8242 of 2010)
for respondents No.1 to 3, 5 and 7
(in CR No.1088 of 2014).

Mr. Athar Ahmed, Advocate
for the petitioner (In CR No.1088 of 2014)
for respondent No.6 (in CR No.8242 of 2010).

AMIT RAWAL J. (Oral)

This order of mine shall dispose of two civil revision petitions bearing Nos.8242 of 2010 and 1088 of 2014.

Challenge in the present petitions is to the impugned judgment and decree dated 08.06.2010, whereby, the suit for declaration and permanent injunction as a consequential relief, has been dismissed. One petition has been filed on behalf of the plaintiffs and another petition on behalf of respondent-defendant No.6, i.e., Punjab Wakf Board Ambala Cantt.

Mr. Y.P.Khullar, learned counsel appearing on behalf of the petitioners submits that the petitioner-plaintiffs being resident of village Lohgarh invoked the jurisdiction of the Tribunal on the premise that respondents No.1 to 5, were in illegal possession of the land owned by Wakf Board which was not taking any action. Defendants No.1 to 5 in the written statement claimed ownership on the basis of the ex parte judgment and decree dated 28.05.1983 passed by Sub Judge II Class, Palwal.

Mr. Athar Ahmad, learned counsel appearing on behalf of the Wakf Board submits that the land belong to Wakf Board and the aforementioned decree has been passed in a wrongful, collusive and fraudulent manner, therefore, the

defendants have no right to use and occupy the land.

Mr. Khullar, learned counsel appearing on behalf of the petitioners submits that the trial Court has committed illegality and perversity in not referring the revenue record, for, as per the revenue record it is grave yard.

Mr. Sunil Panwar, learned counsel appearing on behalf of the respondents submits that the decree had attained finality. Neither the Wakf Board nor the petitioner-plaintiffs have challenged the same. Until and unless, the decree is not set aside or challenged, valid right has accrued in their favour, which cannot be decided, in the absence of the challenge, to it.

I have heard learned counsel for the parties and appraised the paper book.

The contention and facts noticed above, are not in dispute. The decree dated 28.05.1983 is still in vogue and the same has not been challenged either by Wakf Board or petitioner-plaintiffs who are the resident of Lohgarh. Until and unless the decree is not set aside, in my view, the Court has rightly dismissed the suit. Even the revision petition filed by the Wakf Board, who had been arrayed as defendant No.6, is of no consequence. They need/required to challenge the decree.

In view of the aforementioned facts, I do not find any illegality, much less, perversity in the impugned judgment and

decree, which has been passed on appreciation of oral and documentary evidence and the same cannot be said to be without jurisdiction.

Accordingly, the revision petitions are dismissed.

However, it is made clear that this order of mine shall not prevent the petitioners to seek vindication of their right, if any, in the competent Court of law.

(AMIT RAWAL)
JUDGE

September 03, 2015
savita