

**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH.**

**Regular Second Appeal No.2912 of 2013 (O&M)  
Date of Decision: January 20, 2015.**

Mohd. Naseem Yunus

.....APPELLANT(s).

**VERSUS**

Kuldeep Singh and others

.....RESPONDENT(s).

**CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA**

Present: Mr. Amarjit Markan, Advocate  
for the appellant (s).

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**SURINDER GUPTA, J.(Oral)**

CM-7746-C-2013

Application is allowed subject to all just exceptions.

CM-7745-C-2013

Application is for condonation of delay of 12 days in re-filing  
the appeal.

Heard.

In view of facts mentioned in the application, the same is  
allowed and delay of 12 days in re-filing the appeal is, hereby, condoned.

RSA-2912-2013

Claiming that the suit land bearing khewat No.76, khatauni  
No.92 khasra No.86 measuring 1 kanal 2 marlas situated in village Gopalpur,  
Tehsil and District Ludhiana has been leased out to appellant-plaintiff by the  
Wakf Board, he claimed the relief of injunction restraining the respondents-  
defendants from interfering in his possession over the suit property.

The respondents-defendants contested the claim of appellant-plaintiff with the plea that there exists a shrine 'Peerkhana Lallanwala' over the suit property which is maintained by Gram Panchayat, Raj Mohd., Nazir Mohd. and other persons from the Muslim community, who are performing their religious duties over this shrine since long. Earlier also, appellant-plaintiff filed a suit for injunction against seven persons of the village titled "Baba Naseem Shah Vs. Harbans Singh and others" and now he has filed the present suit by changing his own name.

The pleadings of the parties led to the framing of issues as follows:-

1. Whether plaintiff is entitled to the permanent injunction as prayed for? OPP
2. Whether the suit is not maintainable? OPD
3. Whether the plaintiff has not come to the court with clean hands? OPD
4. Whether suit is bad for misjoinder of the parties? OPD
5. Relief.

The appellant-plaintiff relied upon a letter (Ex.P1) written by Administrative Officer to Estate Officer, Punjab Wakf Board and the receipt (Ex.P2) of deposit of amount of ₹3,500 as licence fee with Wakf Board in support of his contention. The lower Court as well as first Appellate Court rejected the claim of the appellant-plaintiff on the basis of these documents with the observations that the letter Ex.P1 is not a lease deed which is only an intimation of acceptance of the proposal. Perusal of this letter written by Administrative Officer to Estate Officer, Punjab Wakf Board, branch at Ludhiana shows that on the terms and conditions mentioned in this letter, Mohd. Naseem Yunus appellant-plaintiff was directed to get the licence deed

executed from the Wakf Board.

This fact is not disputed that no licence deed was ever got executed by the appellant-plaintiff.

In the suit for injunction, plaintiff has to prove the delivery of possession to him by the Wakf Board or by the persons already in possession, which the appellant-plaintiff has not been able to prove by leading any evidence. The first Appellate Court in para 17 of the judgment while discussing this fact has observed as follows:-

“17. There is no dispute as to the ratio decidendi laid down in the case law referred by the learned counsel for the appellant, but the facts of the present case are altogether distinguishable. There is no document to strengthen, as to the plaintiff having been put into possession of the suit property by the Punjab Wakf Board, as Ex.P1 is a mere proposal, but no lease deed has been executed. It is settled preposition of law that the plaintiff has to stand upon his own legs and he cannot take the benefit of the weaknesses of the case of the defendant. Neither the documents produced by the plaintiff have been proved in accordance with law, nor it has been proved that the plaintiff is in established possession of the suit property. No witness from the Wakf Board has been examined to fortify as to the suit property having been given on lease by the Punjab Wakf Board to the plaintiff. Much emphasis has been laid by the learned counsel, as to the learned lower court having dismissed the suit simply by evaluating the testimony of PW2 Maghar Singh, but from the testimony of the plaintiff while appearing as PW1, the perusal of documents Ex.P1 to EX.P7, coupled with the factum that it is always for the plaintiff to establish his or her case on the strength of evidence to be adduced, rather the evidence on the file shows that the plaintiff was not put into possession over the

suit property, nor he is in established possession. Merely tendering of the documents i.e. the bills issued by the Electricity Board and the telephone bills without proving the same in accordance with law is of no help to the case set up by the plaintiff. No doubt, the ownership of the suit property is that of Punjab Wakf Board, but the plaintiff has failed to prove by cogent and legal evidence that he was put into possession by the Punjab Wakf Board or that he is in established possession over the suit property.”

It was incumbent on the plaintiff first to plead as to who was in possession prior to the alleged delivery of possession to him by the Wakf Board and when and in whose presence the possession was delivered to him. Admittedly, there is a shrine “Peerkhana Lallanwala” over the suit land. The appellant-plaintiff cannot usurp this shrine just on the basis of letter dated 31.05.2004 Ex.P1 without placing on record the relevant document that this shrine was earlier under the possession of Punjab Wakf Board and same was delivered to him. In the absence of any such evidence, he is not entitled to relief of injunction.

Perusal of the paper-book and the judgments and concurrent findings of the Courts below, I find no legal or factual infirmity therein calling for any interference.

No substantial question of law requiring determination arises in this appeal, which has no merits. Dismissed.

**January 20, 2015.**  
*Sachin M.*

**( SURINDER GUPTA )**  
**JUDGE**