

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision: 22.10.2016.

(1) CR-1812-2012 (O&M)

Punjab Wakf Board and anotherPetitioners.

Versus

Sukhdev Singh and othersRespondents.

(2) CR-3757-2012 (O&M)

Punjab Wakf BoardPetitioner.

Versus

Harnek Singh and othersRespondents.

CORAM: - HON'BLE MR. JUSTICE RAJAN GUPTA.

Present: - Mr. G.N Malik, Advocate for petitioner.

Mr. S.S.Slar, Advocate for respondents.

Rajan Gupta, J.

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This order shall dispose of above said two revision petitions bearing No. *CR-1812-2012* and *CR-3757-2012* as common question of law and facts are involved in both the petitions. For brevity, facts are being taken from CR-1812-2012.

This revision petition is directed against the judgment and decree dated 11.11.2011 passed by the Wakf Tribunal, Sangrur. Proceedings were initiated by the plaintiffs-respondents seeking declaration that they were co-owners of the suit property and in joint possession in proportion to the land revenue paid by them as they had constructed their houses over the respective portions and defendant-

petitioners be enjoined from dispossessing them. Wakf Board filed reply and took the stand that suit property in possession was of *Makbooja Ahle Islam* being *Gair Mumkin Kabristan* and was used as such since the year 1941-42. It was denied that proprietary body was in possession of the suit property. Plaintiffs were neither the owner nor in possession of the suit property. The suit property was still a graveyard and vested with the Wakf Board. The Tribunal framed five issues, one of them being whether plaintiffs were owners in joint possession as co-sharers of the suit land. Plaintiffs produced certain revenue officials who placed on record certain revenue record. Wakf Board also examined the Estate Officer namely Mehmood Akhtar as DW-1. He produced copy of communication dated 17.3.2006 issued by Punjab Government and notification dated 1.5.1971 issued by Central Government. Both were exhibited as EXs. DA and DB respectively. Certain other evidence was also led. The Tribunal came to the conclusion that though the plaintiffs were in possession of different parts of suit property having raised construction thereon, they were not entitled to declaration or injunction, as prayed for. Certain observations were also made regarding ownership of Wakf Board. The observations appeared to indicate that Wakf Board was not owner of the property.

Learned counsel for Wakf Board has vehemently submitted that there was no issue framed by the Tribunal regarding the ownership of the Wakf Board. It was not required to make any observation or give any finding regarding this aspect.

It appears that Wakf Board is otherwise not aggrieved by the order as suit filed by plaintiffs-respondents was dismissed. On perusal of order passed by the Tribunal, it is clear that the order is not happily worded. There was nothing to show that any issue was framed by the Tribunal regarding ownership of the Wakf Board. It thus, went beyond the controversy involved in the case. The observations regarding ownership of the Board are wholly unnecessary. This court, thus, disposes of the aforesaid two revision petitions with a direction that observations, if any, in respect of ownership of Wakf Board would not be binding on the parties.

Except for the aforesaid observation, no other direction is necessary. Revision petitions are dismissed.

(RAJAN GUPTA)
JUDGE

22.10.2016
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<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>