

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

C.R. No.2843 of 2016

Date of Decision.11.08.2016

Haryana Wakf Board

.....Petitioner

Vs.

Mukhtiyar Singh and others

.....Respondents

Present: Mr. B.S. Bedi, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

AMIT RAWAL J. (ORAL)

The petitioner-Wakf Board is aggrieved of the impugned order whereby the suit seeking declaration to the effect that judgment and decree dated 16.09.2011 passed in civil Suit No.81/2009 titled as “Mukhtiyar Singh Vs. Haryana Wakf Board” is illegal and void and not binding on the plaintiff-Wakf Board, has been stayed.

Mr. B.S. Bedi, learned counsel appearing for the petitioner submits that the aforementioned suit was filed by Mukhtiyar Singh (defendant No.1 in the present suit) challenging the lease to be illegal and null and void on the premise that Wakf Board was not owner of the property. An objection qua jurisdiction of the Civil Court as per Section 6 of the Wakf Act was taken but the same was declined and the suit was decreed, even upheld by the lower Appellate Court. RSA bearing No.4254 of 2013 at the instance of the appellant-petitioner is stated to be listed on 13.09.2016. Against the same judgment and decree dated 16.09.2011 which has been challenged in the aforementioned regular second appeal, the present case i.e. suit No.2/15 has been filed, which has been stayed. Once

the petitioner-plaintiff (defendant in civil suit No.81/2009) has challenged

the judgment and decree dated 16.09.2011 passed in Civil Suit No.81/2009, upheld by the lower Appellate Court, in regular second appeal by invoking the provisions of Section 100 of the Civil Procedure Code, much less, Section 41 of the Transfer of Property Act, I am of the view that the second suit challenging the same very judgment and decree cannot proceed further, until and unless there is an adjudication by the Appellate Court. Even otherwise, the suit has not been rejected but has only been stayed.

The impugned order passed by the Court below is most innocuous and fair one. I do not find any illegality and perversity in the order passed by the court below, much less, cannot be said to be passed without jurisdiction. No ground for interference is made. The revision petition is dismissed.

(AMIT RAWAL)
JUDGE

August 11, 2016
Pankaj*

Whether speaking/reasoned Yes

Whether reportable No