

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

Civil Revision No.3560 of 2017 (O&M)
Date of decision: May 17, 2017

Chatra and others ...Petitioners

Versus

Dina & others ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Susheel Gautam, Advocate for the petitioner.

Rajan Gupta, J.

Present revision petition has been preferred against the judgment and decree dated 31.8.2016, passed by Addl. District Judge, Sonapat, whereby suit for permanent injunction filed by the petitioners has been dismissed.

Learned counsel for the petitioners has assailed the judgment. He submits that impugned judgment and decree are unsustainable. According to him, the suit land is a *Kabristan* and members of Jogi community are buried in the same.

I have heard learned counsel for the petitioners and given careful thought to the facts of the case.

It appears, initially a suit was filed by the petitioners for permanent injunction against the respondents in the year 2001 to restrain the defendants from changing the nature of the suit land comprised in Killa No.53 and also raising any construction thereon, which was a *Kabristan*. Suit was decreed on 14.6.2005 by Additional District Judge,

Sonepat. Aggrieved, respondents preferred revision before this court. Vide order dated 12.8.2013, impugned judgment and decree was set-aside and matter was remanded to the trial court for decision afresh. After hearing the parties and appreciating evidence, the trial court has dismissed the suit filed by the plaintiff/petitioners, as it did not find any right, title or interest of the plaintiffs over the land in question. It observed that plaintiffs could not prove the fact that dead-bodies of the members of Jogi community used to be buried in the suit land and thus, they were not entitled to any injunction. The court further observed that defendant No.5 Wakf Board would neither change the nature of the suit property nor raise any construction over the same.

I am of the considered view that the court below has not committed any error while dismissing the suit filed by the petitioners. It is evident that except the oral statements of PW1 and PW2, there is no other evidence to prove the fact that the land in question, which is a *Kabristan*, was being used by the members of Jogi community for burial purposes. The revision petition is without any merit and is hereby dismissed.

(RAJAN GUPTA)
JUDGE

May 17, 2017
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No