

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.5704 of 2013(O&M)
Date of Order:17.08.2017

Punjab Wakf Board

..Petitioner

Versus

Bagga and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ghulam Nabi Mlik, Advocate,
for the petitioner.

Mr. Ranjit Saini, Advocate,
for the respondents.

ANIL KSHETARPAL, J(Oral).

Punjab Wakf Board is in revision petition against the judgment passed by Wakf Tribunal, dated 06.07.2010.

Punjab Wakf Board filed a suit for declaration that the land measuring 13 marlas comprised in Khewat No.357, is a Mosque and therefore vest in the Wakf Board.

In defence, defendants set up a plea that the aforesaid land was allotted to them by the Government, vide Sanad No.18, dated 25.01.1956. It was further pleaded that defendants have been continuing in possession of the property.

The suit was filed by the Wakf Board on 08.04.2010. Wakf Board claimed that vide notification dated 01.01.1972, the property was declared as Wakf property.

The learned Tribunal after appreciating the evidence available

on the file, dismissed the suit filed by the Wakf Board by assigning three reasons:- (i) that the allotment made to defendants in the year 1956 has not been challenged; (ii) the allotment was made in favour of defendants and Sanad was issued in 1956, whereas the present suit has been filed in the year 2010; (iii) there is no evidence available on the file that the property is a Mosque or any Mosque is situated at the spot.

I have heard counsel for the parties at length and with their able assistance gone through the record.

Learned counsel for the petitioner-Wakf Board has submitted that respondents-defendants filed an application on 08.01.2013, Ex.PX on the file, wherein existence of Mosque was admitted and defendants had prayed for allotment of the land to them. He has further submitted that although the respondents were allotted the land in dispute but the revenue record continued in the name of Wakf Board and, therefore, once the Sanad allotment was not implemented in the revenue record, therefore, it has lost its significance. Learned counsel for the petitioner has further submitted that any allotment by the Rehabilitation Department with respect to the property owned by the Wakf Board would not come to the rescue of the defendants.

I have considered the submissions of learned counsel for the parties. In my opinion there is no force in the revision petition.

It is not in dispute that, vide Sanad No.18, dated 25.01.1956, the land was allotted by the Government to the defendants. The aforesaid Sanad has been produced on the file as Ex.D3. Defendants has further produced on record copy of allotment letter Ex.D1. There is no challenge by the Wakf Board to the Sanad or allotment letter. Wakf Board has not

even impleaded the State government or the Central Government as party to this petition.

Further Wakf Board has only produced copy of notification dated 01.01.1972. No record has been produced before 1972 to prove that the property was Wakf property. No irrefutable evidence has been produced to prove existence of Mosque.

Another argument of learned counsel for the petitioner is that an application was submitted by the defendants, dated 08.01.2013, for allotment of the land from Wakf Board.

I have considered the submission of learned counsel for the petitioner.

The application was submitted by the respondents during the pendency of the suit. The title in favour of defendants, which came by way of Sanad, would not vanish in air only because the respondents had submitted an application for allotment of land to the Wakf Board.

For the reasons recorded herein above, I do not find any reason to interfere with the concurrent findings of fact, arrived at by the Wakf Tribunal. The revision petition is ordered to be dismissed.

August 17, 2017
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No