

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

**RSA No.2699 of 1998(O&M)
Date of Order: 31.10.2017**

Ismail and others

..Appellants

Versus

Nazir Shah and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. G.M.Umair, Advocate,
for the appellants.

Mr. Amarjit Markan, Advocate,
for respondent no.1.

ANIL KSHETARPAL, J (Oral)

Defendants-appellants are in regular second appeal against concurrent findings of fact arrived at by the Courts below.

Plaintiff had filed a suit for permanent prohibitory injunction claiming that he is Mutwalli of the Kabristan.

Both the Courts after appreciation of the evidence available on the file had found that the defendants are owners, however, property in dispute is a public “Khanga”.

As per the provisions of Wakf Act, 1995, dispute whether a particular property is a wakf property or not, is to be adjudicated upon by the Wakf Tribunal, constituted under the Act of 1995. This suit is only for injunction. Plaintiff has been found to be the managing affairs of the religious property.

Learned counsel for the appellants has pointed out that while deciding the injunction suit, plaintiff was also declared “Mutwalli” of the property, which also falls within the exclusive jurisdiction of the Tribunal, constituted under the Act of 1995.

Taking into consideration the fact that the suit was only for injunction, any finding arrived at by the courts below declaring the plaintiff to be “Mutwalli” of the property in dispute would not operate as resjudicata. If any of the parties has any grievance, they shall be at liberty to move appropriate petition before the Wakf Tribunal.

This regular second appeal is disposed of accordingly.

October 31, 2017
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No