

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CR No.1566 of 2014 (O&M)

Date of Decision: 28.05.2018

Honsi and others

..... Petitioners

Versus

Haryana Wakf Board and another

..... Respondents

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present:- Mr. V.K. Jain, Sr. Advocate with  
Mr. J.L. Malhotra, Advocate  
for the petitioners.

Mr. G.N. Malik, Advocate  
for the respondents.

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**ANIL KSHETARPAL, J.**

This revision petition has been filed under Section 83 of the Wakf Act, 1995 challenging the order passed by the learned Wakf Tribunal constituted under the Wakf Act, 1995.

Petitioners filed a suit for declaration claiming themselves to be owner in possession of land measuring 260 kanals and 50 marlas being proprietors/biswedars of village Sirohi. It is the case of the plaintiffs that Sh. Diwan Shah Chela Ballu was inducted to serve 'Takia' who died and therefore, services being rendered to 'Takia' was stopped. It was further claimed that the plaintiffs filed a suit against general public claiming that the plaintiffs are entitled to possession which was decreed on 14.11.2007. Pursuant to the aforesaid decree, the physical possession of the land was handed over to the proprietors on 23.04.2008.

It is further pleaded that Haryana Wakf Board has obtained an ex parte judgment and decree while impleading Gram Panchayat and certain other persons as party which is illegal, unlawful and void.

The defendant contested the suit and pleaded that another suit was filed by certain inhabitants titled as 'Sharif Khan and others Vs. Punjab Wakf Board and others' which was withdrawn on 27.04.2012. The defendants pleaded that the property is being used as 'Takia' and is under the possession of the defendants. After framing of the issues, the parties were allowed to lead evidence and a careful reading of the orders passed by the Wakf Tribunal, it is apparent that the Wakf Tribunal has neither discussed the evidence which has been produced before it nor discussed relevant provisions of law before deciding the suit.

The learned Tribunal has relied upon an ex parte judgment in which the plaintiffs were not party dated 08.12.2009. Since the plaintiffs were not party, the aforesaid judgment passed would not bind the plaintiffs. Still further, on careful examination of notification, it is apparent that the name of village has been mentioned as Siashi whereas the suit property is situated in village Sirohi. As per the Jamabandi for the year 1960-61, the land is recorded in the ownership of Panchayat Deh whereas as per Jamabandi for the year 1944-45, it is recorded as Shamlat Deh Hasab Rasad Kabza Arazi.

Keeping in view the aforesaid facts, this Court is of the considered opinion that the judgment passed by the learned Tribunal is required to be set aside and the suit deserves to be remanded back to the Tribunal for decision afresh. Since in the Jamabandi for the year 1960-61, the land is recorded in the ownership of Panchayat Deh, therefore, the Gram

Panchayat of Village Sirohi through its Sarpanch is also impleaded as defendant No.3. The Tribunal on receipt of file would issue notice to the Gram Panchayat and after re-examining the evidence which is available or which the parties further lead in support of their case including that of the Gram Panchayat, would re-decide the suit.

With these observations, the revision petition is disposed of.

28.05.2018  
Dinesh Bansal

( ANIL KSHETARPAL )  
JUDGE

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|---------------------------|----------|
| Whether speaking/reasoned | Yes / No |
| Whether Reportable        | Yes / No |