

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

CR No.4975 of 2018(O&M)
Date of Decision: 30.11.2018

Majid Khan and others

... Petitioners

Vs

Sharda Godara and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Saleem Ahmed, Advocate
for the petitioners.

RAJ MOHAN SINGH, J. (ORAL)

[1]. Petitioners have assailed the order dated 28.09.2017 passed by Civil Judge (Junior Division), Faridabad and order dated 26.03.2018 passed by Additional District Judge, Faridabad whereby the order passed by the trial Court under Order 39 Rules 1 and 2 CPC was upheld.

[2]. In view of material on record, it is found that Wakf land measuring 53 kanals 13 marlas was reserved for Kabristan. Out of the aforesaid land, 40 kanals was leased out in favour of defendant No.1 since the year 2000-01 and remaining land measuring 13 kanals 13 marlas is being used for Kabristan for which Wakf Board is the caretaker.

[3]. Earlier a suit for permanent injunction was filed by the plaintiff/petitioner. The said suit was dismissed in default and the same was restored at a subsequent stage. The pleadings in

respect of earlier suit are conspicuously missing in the present suit.

[4]. Both the Courts below have held that the plaintiffs who have not come to the Court with clean hands do not deserve any equitable relief. Unscrupulous persons can be thrown out of litigation summarily at any stage of litigation if it is found that they have not come to the Court with clean hands. Since as per record, the property is shown to have vested in Wakf Board and in terms of Section 83 of the Wakf Act, Wakf Tribunal has got the jurisdiction and jurisdiction of Civil Court is barred under Section 85 of the Act. No declaration has been sought against the vesting of land in the Wakf Board. A suit for permanent injunction cannot enlarge the scope of litigation.

[5]. The impugned orders passed by the Courts below are in consonance with the golden principles of Order 39 Rules 1 and 2 CPC.

[6]. No interference is called for in the impugned orders passed by the Courts below.

[7]. Dismissed.

30.11.2018
Prince

(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No