

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

**Civil Revision No.7661 of 2016 (O&M)
Date of Decision: 10.09.2018**

Gurmit Singh and others

.....Petitioners

Vs

Punjab Wakf Board

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Mandeep K. Sajjan, Advocate
for the petitioners.

Mr. Ghulam Nabi Malik, Advocate
for the respondent.

RAJ MOHAN SINGH, J.

[1]. Petitioners have assailed the order dated 27.10.2016 passed by the Addl. Civil Judge (Sr. Divn.) Zira vide which application under Order 21 Rule 10 read with Section 151 CPC and Section 83 of the Wakf Act 1995 (hereinafter to be referred to as 'the Act') & Wakf (Amendment) Act 2013 and the objections filed by the petitioners were dismissed.

[2]. Brief facts of the case are that the ejectment of the petitioners at the instance of the Punjab Wakf Board has attained finality in hierarchy of Courts. Though at the first instance, the suit for possession with consequential relief of

permanent injunction filed by the Punjab Wakf Board before the Wakf Tribunal was dismissed vide judgment dated 17.07.2003, however in Civil Revision No.5085 of 2003, the said order was reversed and the petitioners were ordered to be ejected vide order dated 23.09.2009.

[3]. In execution of the ejectment orders, the petitioners have filed the application under Order 21 Rule 10 CPC and the objections before the executing Court to the effect that the civil Court cannot execute the decree at the first instance in view of Order 21 Rule 10 CPC, wherein the executing Court would be the Court passing the decree. The execution in question before the civil Court would only be maintainable in case the decree is transferred/endorsed by the Wakf Tribunal to the civil Court in terms of Order 21 Rule 10 CPC.

[4]. I have considered the submissions made by learned counsel for the parties.

[5]. The Wakf Act, 1995 is a special statute. For ready reference, the sub-Sections 7 and 8 of Section 83 of the Act are reproduced hereasunder:-

“(7) *The decision of the Tribunal shall be final and binding upon the parties to the application and it shall have the force of a decree made by a civil court.*

(8) *The execution of any decision of the Tribunal shall*

be made by the civil court to which such decision is sent for execution in accordance with the provisions of the Code of Civil Procedure, 1908 (5 of 1908).

[6]. Perusal of the sub-Sections 7 of Section 83 of the Act would show that the decision of the Tribunal has to be treated as final and binding upon the parties. Such decision has the force of a decree made by the civil Court. The execution of such decree passed by the Tribunal lies before the civil Court in accordance with law with the provisions of Civil Procedure Code.

[7]. Since the decree passed by the Tribunal is the decree made by a civil Court, therefore, the Act being a special statute has to be construed in the aforesaid context. The execution filed before the civil Court is maintainable in view of specific sub-Section 7 of the Section 83 of the Act.

[8]. For the reasons recorded herein-above, I find no error of jurisdiction in the impugned order passed by the executing Court. This revision petition is accordingly dismissed.

September 10, 2018

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No