

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.7920 of 2017
Date of decision:23.03.2018

Harnam Singh

... Petitioner

Vs.

Punjab Wakf Board and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Ramesh Sharma, Advocate
for the petitioner.

AMIT RAWAL J. (Oral)

The petitioner-defendant No.7 is aggrieved of the impugned judgment and decree dated 27.07.2017 passed by the Lower Appellate Court (Tribunal constituted under Section 83 of the Wakf Act, 1995) vide which the suit for declaration and permanent injunction filed by respondent No.1- Wakf Board, was decreed.

The plaintiff-respondent No.1 instituted a suit aforementioned on the premise that land in dispute was in ownership of Wakf Board and possession was sought from defendant no.7-Harnam Singh. The relief of permanent injunction and mandatory injunction had also been sought against defendant no.7 restraining him from illegally and forcibly entering into land bearing khasra nos.2137 and 2138 belonging to the plaintiff. It

was stated that land in revenue record has been shown as Masjid Muafidar and the land in question was notified in Gazette Notification published on 11.09.1971 under the list of Wakf Act, 1954, at serial no.303. Defendant no.4 Sant Singh became lessee of Wakf Board and paid chakota of Rs.23,000/- upto the year 2004-05 and he had no right to deal with the property but he in collusion with Harnam Singh son of Atma Singh transferred the land in question to him necessitating the plaintiff to file the suit.

The suit was contested by defendants No.4 and 7 and rest of the defendants were proceeded against ex parte on the premise that they had been paying the rent regularly. Receipt dated 09.05.2007 for a sum of Rs.23,000/- was attached.

Since the parties were at variance the trial Court framed following issues:-

- “1. Whether the plaintiff is entitled to declaration and permanent injunction as prayed for ?OPP*
- 2. Whether the plaintiff is entitled to permanent injunction and mandatory injunction as prayed for? OPP*
- 3. Whether the land in question vests in plaintiff/petitioner? OPP*
- 4. Whether suit is not maintainable?OPD*
- 5. Whether plaintiff is estopped by its act and conduct to file the present suit? OPD*

6. *Relief.”*

Both the parties examined their witnesses.

Mr. Ramesh Chand, learned counsel appearing on behalf of the petitioner-defendant no.7 submits that no doubt, defendant no.7 had taken plea of adverse possession admitting the ownership of plaintiff but fact of the matter is that the Court was required to notice the period of possession which was 30 years back and therefore, the suit was barred by law of limitation under the provisions of Article 65 of Limitation Act. The aforementioned provisions of law have not been taken into consideration, thus, there is illegality and perversity in the judgment and decree under challenge.

I have heard the learned counsel for the petitioner/defendant no.7 and appraised the paper book.

The receipt, Ex.D1 has been produced on record to show that initially the land was in possession of defendant no.4 who had been paying chakota to the plaintiff/respondent No.1. Defendant no.7 had taken a plea of adverse possession admitting the ownership of plaintiff-Wakf Board which is not disputed. No direct and cogent evidence had been led to bring the case within the parameters of Article 65 of Limitation Act.

In view of what has observed above, I am of the view that there is no illegality and perversity in the impugned judgment and decree, much less no ground is made out for interference.

Resultantly, the revision petition stands dismissed.

(AMIT RAWAL)
JUDGE

March 23, 2018
savita

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No