

RSA-3839-2016 (O&M)
RSA-5620-2016 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

105

Date of Decision : 7.8.2018

RSA-3839-2016 (O&M)

Dinesh Kumar

....Appellant

vs.

Hanuman Prasad and others

....Respondents

RSA-5620-2016 (O&M)

Dinesh Kumar

...Appellant

vs.

Municipal Council, Narnaul and another

....Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Vijay Sharma, Advocate
for the appellant.

AJAY TEWARI, J. (Oral)

CM-14719-C-2016 IN RSA-5620-2016

For the reasons recorded, the application is allowed. Delay of
108 days in refiling the appeal is condoned.

CM-14720-C-2016 IN RSA-5620-2016

For the reasons recorded, the application is allowed. Delay of
47 days in filing the appeal is condoned.

Main Cases

These two appeals have been filed against two judgments
arising out of two suits (which were consolidated and decided together).

One suit was filed by the respondent challenging the transfer of 90 Square Yards of the land to the appellant by the Punjab Wakf Board (for short 'the Board') on various grounds. Second suit was filed by the appellant seeking permanent injunction against the Municipal Committee, Narnaul restraining it from interfering in the property.

Both the Courts below found that in a part of the transferred property there was an ancient Dargah Hazrat Kamal Shah which was handed over to the custody of the Board in January 1995 while remaining part of the property was Nazool land which was never vested in the Board at all. Both the Courts below held that the lease deed of November, 1994 was in any case a meaningless document because in 1994 the Board had no right in the property at all it could not have leased it out to the appellant and that is why the appellant is before this Court.

Learned counsel has made various arguments regarding admissibility of certain plans and certain documents and alleging that the Courts below have given their finding on the basis of documents which has not been legally proved.

To my mind, the sole determinant in this case is that as per the appellant and the Board the property leased out was part of the Dargah Hazrat Kamal Shah. Admittedly, the property of the Dargah Hazrat Kamal Shah was notified under the Punjab Wakf Board Act in January, 1995. There is no explanation under what title or right the Board could have executed the sale deed of the property in November, 1994. Resultantly, it has to be held that the lease deed was itself illegal on this score. Once this is so, there would be no need for this Court to go into other aspects and

regarding the admissibility of the documents.

Learned counsel has then argued that no doubt some portion of the land under his occupation was taken from the Board but as regards the remaining portion the Court has wrongly believed it to be Nazool land without there being any evidence on record.

In my opinion, this argument must also fail because the appellant had filed a suit claiming an injunction against the Municipal Committee and in that suit he could not show how he had come in possession of that land.

Consequently, both the appeals stand dismissed.

Since the main cases has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

7.8.2018
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No