

CR-141-2017 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-141-2017 (O&M)
Date of Decision:-27.11.2019

Gagan Kumar

.....Petitioner

Versus

Punjab Wakf Board and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR

Present: Mr. J.S. Lalli, Advocate for the petitioner.

Mr. G.N. Malik, Advocate for respondent No.1.

SANJAY KUMAR, J. (Oral)

The petitioner in this revision, filed under Article 227 of the Constitution, is the second defendant in the civil suit bearing CS No.2037 of 2014 on the file of the learned Civil Judge (Junior Division), Ludhiana (hereinafter, 'the Trial Court'). The said suit was filed by the Punjab Wakf Board, the first respondent herein, for possession of certain wakf property situated at Mohalla Kishab Pura Khud in Ludhiana and for grant of a consequential permanent injunction. While so, the petitioner herein, the second defendant in the suit, filed an application therein under Order 7 Rule 11 CPC, seeking rejection of the plaint on the ground that the jurisdiction of the civil Court stood denuded by Section 85 of the Punjab Wakf Act, 1995 (hereinafter, 'the Act of 1995'). However, by order dated

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06.10.2016, the trial Court dismissed the application. Aggrieved thereby, the second defendant approached this Court.

Perusal of the order under revision reflects that the trial Court failed to take note of the amendments effected in the Act of 1995 in the year 2013, *vide* Act No.27 of 2013, w.e.f. 01.11.2013. Thereby, Section 83 of the Act of 1995 underwent a sea change and any dispute, question or other matter relating to a wakf or wakf property, including eviction of a tenant, necessarily had to be decided by the jurisdictional Wakf Tribunal constituted thereunder. This being the settled legal position, the trial Court had no jurisdiction to entertain the subject suit, whereby the Punjab Wakf Board sought possession of the suit scheduled wakf property.

The order under revision is accordingly set aside. The application filed by the petitioner/second defendant is allowed and the suit plaint shall stand rejected under Order 7 Rule 11 (d) CPC. This order shall however not preclude the Punjab Wakf Board from taking recourse to the statutory remedy available to it in accordance with law.

The Civil Revision is allowed.

No order as to costs.

(SANJAY KUMAR)
JUDGE

November 27, 2019.

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Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.