

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

Sr. No.206

C.R. No.2202 of 2013 (O&M)

Date of decision: 12.07.2019

Ramesh Kumar alias Ramesh Lal

....Petitioner

versus

Punjab Wakf Board

....Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Rohiteshwar Singh, Advocate
for the petitioner.

Mr. Gulam Nabi Malik, Advocate
for the respondent.

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DEEPAK SIBAL, J. (Oral)

The present petition is directed against the order dated 19.02.2010 passed by the Additional District Judge, Hoshiarpur-cum-Tribunal under the Wakf Act, 1995 (for short – the Tribunal) through which the respondent's suit for eviction of the petitioner from 125 square yards out of the 02 kanals 10 marlas of land, detailed and described in the head note of the respondent's plaint, has been partly decreed.

The facts, in brief, which are required to be noticed for adjudicating upon the present petition are that the respondent-Punjab Wakf Board had filed a suit seeking therein eviction of the petitioner from the land measuring 125 sq. yds. which fell within the 02 kanals 10 marlas of land owned by the respondent. It was the respondent's case that the petitioner had raised construction over the aforesaid land without authority and permission from the respondent and therefore, was liable to be evicted.

Upon notice, the petitioner, who was the defendant in the suit appeared before the Trial Court and through his written statement admitted the respondent's ownership over the disputed land. However, it was submitted that he had raised his construction over the disputed land about 30-35 years ago which was well within the knowledge of the respondent and since they never objected to such construction, the petitioner claimed that he had become owner of the disputed property by way of adverse possession.

After the parties had led evidence, learned counsel appearing on behalf of the petitioner stated before the Trial Court that he did not press his claim for ownership on the basis of adverse possession. However, reliance was placed on a demarcation report and testimony of its author DW-3 Bawa Singh to contend that the construction raised by the petitioner was not on the respondent's property. The Trial Court found the statement of DW-3 Bawa Singh not worthy of acceptance as he had admitted in his cross-examination that he had conducted the demarcation without being in possession of any revenue record. Demarcation report by DW-3 Bawa Singh was also rejected for the reason that no pucca points had been fixed by him at the time of demarcation nor any revenue record like Aks Shajra etc. had been consulted. In these circumstances, the Trial Court partly decreed the respondent's suit and resultantly ordered the petitioner's eviction from 125 sq. yds. out of 02 kanals 10 marlas of the respondent's property. Such order is the subject matter of challenge in the present proceedings.

Learned counsel for the parties have been heard.

The respondent has sought eviction of the petitioner from 125 sq. yds. of land out of the total area of 02 kanals 10 marlas owned by the respondent. According to the respondent, the petitioner had raised

construction over the aforesaid land without authority or permission of the respondent and was therefore, liable to be evicted. In his written statement, the petitioner had admitted the respondent's ownership over the disputed land but had sought dismissal of the respondent's suit on the grant of adverse possession as according to him he had made construction on the disputed property about 30-35 years ago of which the respondent had knowledge of but had never objected. However, at the time of arguments, the learned counsel for the petitioner specifically gave up the plea of adverse possession.

Once the petitioner admitted the respondent's ownership over the disputed property and his counsel gave up the plea of adverse possession, virtually nothing remained in the petitioner's case. The petitioner had produced DW-3 Bawa Singh to prove a demarcation report Ex.D-4 wherein it had been stated that the construction made by the petitioner was not on the respondent's property. However, DW-3 Bawa Singh admitted in his cross-examination that of the time of demarcation of the disputed property he had not consulted any official/revenue record. The demarcation report also does not show fixation of any pucca points by him. Therefore, the demarcation report Ex. D4 was rightly rejected by the Trial Court.

In view of the above, there is no merit found in the present petition and the same is hereby dismissed.

No costs.

(DEEPAK SIBAL)
JUDGE

July 12, 2019
Jyoti 1

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No