

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

CR-697-2007 (O&M)

Date of decision: 11.09.2019

Smt. Shashi Bala and another

...Petitioners

Versus

Madhu Kamal Sehgal and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. Satpal Bhasin, Advocate for
Mr. Harkesh Manuja, Advocate for the petitioners.

Mr. Ajay Aggarwal, Advocate for
Mr. Dinesh Goyal, Advocate for respondent No.2.

H.S. MADAAN, J.

Briefly stated facts of the case are that plaintiff Madhu Kamal Sehgal had filed a suit for grant of permanent injunction against the defendants i.e. Smt. Shashi Bala wife of Sh. Om Parkash as well as Om Parkash son of Sh. Ramji Dass, Som Nath son of Sh. Guranditta Mal and Punjab Wakf Board, Ludhiana, on the averments that he was allotted plot measuring 358.1/2 sq. yards forming part of property bearing municipal unit No.B-III-582(Old)/744 (new) situated at Mohalla Saidan, Ludhiana, shown in red colour in the site plan attached with the plaint by defendant No.4-Punjab Wakf Board as tenant w.e.f. 01.01.1992 for the purpose of commercial shed, vide allotment order dated 07.03.1992. The possession of the said plot was accordingly delivered by defendant No.4 to the plaintiff. Defendant No.4 had also issued 'No Objection Certificate'

in favour of the plaintiff, permitting him to raise construction of ground floor of the building in the said plot for the purpose of commercial shed on 07.03.1992. The plaintiff has been in possession of the said plot as tenant ever since, regularly paying the rent to defendant No.4. He had paid rent upto 31.03.1997. Defendant Nos.1 to 3 threatened to interfere in the peaceful possession of the plaintiff over the plot in dispute, not listening to his requests to desist from doing so.

Feeling aggrieved, the plaintiff brought the suit in question. On getting notice, all the four defendants put in appearance and filed written statements.

In the joint written statement filed by respondent Nos.1 to 3, they had taken up various legal objections, contending that in the year 1969, defendant No.3 and Sh. Ramji Dass now deceased had taken on lease one room forming part of property unit No.B.III-585, Mohalla Saidan, Ludhiana having dimensions of 9' x 10' from defendant No.4 at a monthly rent of Rs.5/- regarding which an allotment letter dated 26.03.1969/10.04.1969 was issued. Apart from that, the mosque property shown in green colour in the plan attached with written statement was taken on lease at the rate of Rs.1/- per month by defendant No.3 and said Ramji Dass, since deceased from defendant No.4. Since then, defendant No.3 and Sh. Ramji Dass represented by his LRs Krishna Rani-widow, Subash Chander and Chander Parkash-sons are in occupation of the said room and mosque property. The plaintiff wanted to take forcible possession of the same in connivance with defendant No.4 and defendant

No.3 brought a suit for permanent injunction titled Som Nath Vs. Punjab Wakf Board in the Court of law. The parties were directed to maintain status quo. The present suit is counter blast to such suit. The answering defendants prayed for dismissal of the suit.

In the written statement filed by defendant No.4, it prayed that suit of plaintiff be decided accordingly.

Plaintiff filed replication. From the pleadings of the parties, following issues were framed:-

1. Whether the plaintiff is entitled to decree for permanent injunction as prayed for? OPP
2. Whether the suit is not maintainable? OPD
3. Whether the plaintiff has no locus standi to file present suit? OPD
4. Whether the suit is bad for non joinder and mis joinder of the parties? OPD
5. Whether the plaintiff has no cause of action? OPD
6. Relief.

Parties were afforded adequate opportunities to lead evidence in support of their respective claims. After hearing arguments, the Tribunal decided issue No.1 in favour of plaintiff and against defendant Nos.1 to 3. Issues No.2 to 5 were decided against the defendants, since those were not pressed on behalf of the defendants during the course of arguments. As such, the suit of the plaintiff was decreed and a decree for permanent injunction, restraining defendant Nos.1 to 3 and persons claiming under them from interfering in the peaceful possession of plaintiff and from causing any interference or obstruction in the raising in the construction in the suit property was

passed in favour of the plaintiff and against the defendants, vide judgment and decree dated 11.12.2006.

Defendants Shashi Bala and her husband Om Parkash felt aggrieved by the said judgment and they have challenged the same, by way of filing the present revision petition before this Court, notice of which was given to contesting respondents, who have put in appearance through counsel.

I have heard learned counsel for the parties besides going through the record.

The Tribunal on proper appraisal and appreciation of evidence and in the light of factual and judicial position has observed in para No.7 of the judgment, which for ready reference is reproduced as under:-

“7. It is admitted by both the parties that Wakf Board is the owner of the property in dispute and it is the plea of the plaintiff that property in dispute was taken on lease by him from the Wakf Board for his commercial use and to raise the construction. The Wakf Board in their written statement filed in the present case fully admitted the plea of the plaintiff whereas the defendants nos.1 to 3 in the written statement has alleged that Ramji Dass took one room forming the part of the property B-III-585, Mohalla Saidan, Ludhiana from defendant No.4 at a monthly rent of Rs.5/- on 10.04.69 but they have nowhere alleged that property in dispute was ever allotted to them by the Wakf Board and the documents produced by the plaintiff in the shape of allotment letter and receipts and no objection certificate amply proves that it was handed over to the plaintiff by the original owner Wakf Board on a monthly rent for

construction of commercial shed and at present also this property is in possession of the plaintiff and the defendants nos.1 to 3 has no right or title to interfere in the possession of the property in dispute and the plaintiff is very much entitled to injunction against them. As such this issue is decided in favour of the plaintiff and against defendant nos.1 to 3. ”

In view of such findings, the suit of the plaintiff was decreed.

This judgment does not suffer from any illegality or infirmity and is based upon proper appraisal of evidence and correct interpretation of law.

There is no ground to interfere therewith while exercising revisional jurisdiction. As such, finding no merit in the revision petition, the same stands dismissed.

11.09.2019

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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No