

SAO No.26 of 2015 (O&M)

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

SAO No.26 of 2015 (O&M)
Date of decision: 28.08.2019

Sukhdev Singh

.....Appellant

versus

Punjab Wakf Board and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. S.S. Walia, Advocate, for the appellant.
Mr. Deepak Sabherwal, Advocate, for respondent No.1.

RAMENDRA JAIN, J. (ORAL)

Third-party-objector has filed this second appeal against order dated 02.12.2014 of the appellate Court affirming order of the Executing Court dated 17.05.2011, dismissing his objections.

Briefly, on 14.08.1967 respondent No.1 – Wakf Board filed a suit for possession against some local inhabitants named as Mastan Chand and others, claiming its ownership over the suit property, which was decreed vide judgment and decree dated 23.01.1968. Thereafter, respondent No.2 claiming itself to be owner in possession of the suit property filed a suit for injunction against respondent No.1 – Wakf Board pleading that, in fact, Mastan Chand etc. against whom suit of the Punjab Wakf Board was decreed vide judgment and decree dated 23.01.1968 were not in possession of the suit property, rather Gurudwara was in possession of the suit property. Therefore, it could not have been dispossessed in execution of a decree obtained by Punjab Wakf Board against Mastan Chand etc. Said suit

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vide judgment and decree dated 11.12.1981, leaving issue of ownership open with direction to the Punjab Wakf Board to file a regular suit for possession against respondent No.2 – Gurudwara Prabandhak Committee. Consequently, on 16.01.1989 respondent No.1 filed regular suit for possession against respondent No.2, which was decreed on 30.11.1996.

Appeal against the aforesaid judgment and decree filed by respondent No.2 was dismissed vide judgment and decree dated 28.04.2000. Thereafter respondent No.1 filed execution petition for possession of the suit property, wherein certain residents/respondent No.2 – Gurudwara Prabandhak Committee filed third-party objections, which were dismissed vide order dated 30.08.2004 by the Executing Court.

Again some inhabitants of near vicinity of the suit land, namely, Subhash and others started third round of litigation with respondent No.1 – Wakf Board by filing a suit, challenging judgment and decree dated 30.11.1996 in its favour. Said suit was dismissed. Appeal before the lower appellate Court and revision before this Court filed by Subhash and others were also dismissed. This Court ordered for returning of the plaint to Subhash etc. Thereafter, respondent No.2 – Gurudwara Prabandhak Committee filed objections and additional objections, which were dismissed on 17.08.2009. Consequently, Executing Court issued warrants of deliver of possession in favour of respondent No.1 – Punjab Wakf Board. Appeal against the said order of the Executing Court was also dismissed by the lower appellate Court vide judgment dated 20.10.2009. Thereafter, appellant Sukhdev Singh and others filed objections, which were dismissed on 17.05.2011. Appeal filed by them was also dismissed on 02.12.2014.

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Singh and others against respondent No.1 – Punjab Wakf Board by filing a civil suit challenging aforesaid judgment and decree dated 30.11.1996, which was earlier challenged by Subhash Chand etc. Said suit was dismissed on 05.08.2015. Atma Singh etc. being aggrieved of order dated 05.08.2015 dismissing their suit against respondent No.1 preferred appeal before the lower appellate Court, but finally withdrew the same on 25.04.2019.

Learned counsel for the appellant *inter alia* contends that follower of a Gurudwara has a legal right to protect possession of its deity. Thus, both the Courts below, ignoring above fact, have wrongly non-suited the appellant. According to notification, pursuant to which respondent No.1 claimed its ownership over the suit land, area of the suit land comes to 2334 sq. feet, whereas in the site plan (Mark 'A') annexed with the execution petition, respondent No.1 is seeking possession of land measuring 5270 sq. feet i.e in excess to its ownership.

On the other hand, refuting above submissions, learned counsel for respondent No.1 submits that the Executing Court has already dealt with arguments raised before this Court in detail. Therefore, same are not required to be revisited.

Having given thoughtful consideration to the rival submissions, this Court finds the instant appeal completely devoid of any merit in view of the observation of the Executing Court that area and measurement of the suit property was mentioned by respondent No.1 – decree-holder in the headnote of the plaint. Therefore, there is no ambiguity qua delivery of possession to it.

More so, above factual position shows that respondent No.1 –

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Punjab Wakf Board even after litigating for around 52 years has not been able to get possession of the suit property, pursuant to decree dated 14.08.1967, despite failure of the appellant-objector to prove his *locus standi* to file suit, which throws light on the so called efficiency of Indian legal system.

In view of discussion made above, instant appeal fails.

Dismissed.

(Ramendra Jain)
Judge

August 28, 2019
R.S.

Whether speaking/reasoned Yes/No

Whether reportable Yes/No