

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

RSA-1779-2019(O&M)

Date of decision: 10.02.2020

Ajaib Singh

.....Appellant

Versus

Punjab Wakf Board

.....Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr.Sarju Puri, Advocate for the appellant

ANIL KSHETARPAL, J. (ORAL)

The defendant-appellant has filed Regular Second Appeal against concurrent finding of fact arrived at by the Courts below while decreeing the suit for possession filed by Punjab Wakf Board for recovery of possession while declining to grant decree for recovery of mense profit. Punjab Wakf Board-the plaintiff filed the present suit for possession of 9 kanals 5 marlas undisputedly owned by it. As per the case of the plaintiff, defendant was inducted as lessee for a period of one year which was never extended. In any case the lease in favour of defendant was terminated in the year 2008. The suit for grant of decree for possession was filed on 7.12.2013. In response to the suit, defendant admitted that he was a lessee but claimed that he can only be evicted only as per the provisions of Punjab Security of Land Tenure Act, 1953.

Both the Courts decreed the suit. Learned counsel appearing for the appellant submitted that Civil Court had no jurisdiction to

entertain and decide the suit in view of the provisions of the Wakf Act, 1995. He submitted that under the Wakf Act 1995 a Tribunal has been constituted and the jurisdiction of the Civil Court is barred under Section 85 of the Wakf Act, 1995. He further submitted that the appellant had been depositing rent/lease money upto the year 2014. In support of his argument, he has relied upon a judgment passed by this Court in the case of **Punjab Wakf Board vs. Kamal Kumar** 2017 (3) Law Herald 2327.

This Court has considered the submission, however, finds no substance therein. No doubt as per Section 83 of the Wakf Act, a Tribunal has been constituted and jurisdiction of the Civil Court has been excluded. However, there was lot of dispute on the scope of jurisdiction of the Tribunal constituted under the Wakf Act. The matter was settled by the Hon'ble Supreme Court in the case of **Ramesh Gobindram (dead) through LRs vs. Sugra Humayun Mirza Wakf** 2010 (8) SCC 276. The Hon'ble Supreme Court elaborately decided on the question of scope of jurisdiction of the Tribunal. In such circumstances, particularly, when the defendant neither objected to the jurisdiction of the Tribunal before the Trial Court or the First Appellate Court, this Court does not find it appropriate to permit the appellant to question the jurisdiction of the Civil Court at this stage. Further, the defendant-appellant has no right, title or interest in the property, particularly, when the lease in his favour stands terminated in the year 2008 and the defendant has never challenged termination of the lease.

With respect to next argument, it may be noticed that the suit was filed by the plaintiff-respondent is based on title and not on non-

payment of rent. Once the lease has been terminated by a notice, the relationship of landlord and tenant came to an end. In such circumstances, possession of the defendant is not legal. Hence, he is in unauthorized possession. In view thereof, there is no ground to interfere.

Hence, dismissed.

All pending CMs, if any, are also disposed of.

10.02.2020	(ANIL KSHETARPAL)
rekha	JUDGE
Whether speaking/reasoned	Yes / No
Whether Reportable	Yes / No