

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

207

CR-1194-2020 (O&M)
Date of decision: 11.01.2021

Mehardeen

.....Petitioner

versus

State of Punjab and others

....Respondents

CORAM: Hon'ble Mr. Justice Girish Agnihotri

Present: Mr. S.P. Soi, Advocate for the petitioner.

Mr. Kanisth Ganeriwala, AAG, Punjab for respondent No.1.

Mohd. Arshad, Advocate for respondents No.2 & 3.

Mr. Karan Gupta, Advocate for respondent No.4.

GIRISH AGNIHOTRI, J. (Oral)

The matter has been taken up through video-conferencing on account of restrictions due to outbreak of pandemic COVID-19.

Petitioner-Mehardeen, stated to be aged 46 years, has filed the present petition *inter alia* with a prayer for quashing the impugned order dated 30.01.2020 (Annexure P-6) in CS No.131 of 2019, passed by the learned Additional District Judge-I, Patiala, vide which the suit filed by the petitioner, has been dismissed.

Learned counsel for the petitioner, at the outset submits that the petitioner had filed civil suit CS/131/2019 *inter alia* with the following prayer:-

“Suit for Permanent injunction restraining the defendant Nos.4 to 7 from raising any construction in the land of Graveyard bearing Khasra No.30 Min Khewat

No.255/229 Khatauni No.282 measuring 6K-17M (4140 Sq. Yards) as per Jamabandi for the year 2014-15 situated in Village Jagirpur, Tehsil and District Ludhiana owned by the defendant No.2; on the basis of lease orders/lease deeds which stands already expired on 31.07.2018 as the same were executed for a period of 33 months from 1-11-2015 vide lease order dated 21-6-2017, the lease deeds were also illegal, void-ab-initio as the same were never registered nor the intimation of the same was ever given to the State Government defendant No.1 and the same was reserved for Islamia Public school, Ludhiana vide order dated 14-3-2017 passed by the Chairperson of the Punjab Waqf Board, Chandigarh.”

Learned counsel for the petitioner submits that during pendency of the Civil Suit on 30.09.2019 interim directions were issued by the Additional District Judge-I, Patiala. The said order reads as under:-

“Learned counsel for respondents No.4 to 7 has got recorded his statement to the effect that defendants No.4 to 7 have applied for extension/renewal of lease with defendants No.2 & 3, which is pending for consideration. It is further prayed that the said matter will take some time for renewal and defendants No.4 to 7 are ready to maintain status quo regarding construction till the next date of hearing. It is further prayed that if, before the next date of hearing, the lease is renewed by Wakf Board defendants No.4 to 7 shall be at liberty to raise construction in terms of lease. In view of the statement of learned counsel for defendants No.4 to 7 now for hearing on the application u/s 39 rules 1 & 2 CPC, to come up on 4.11.2019. The defendants no.4 to 7 shall maintain status quo regarding construction till 4.11.2019.”

Learned counsel for the petitioner then submits that during the

pendency of the aforementioned Civil Suit on 01.12.2019, Wakf Board has granted lease to the private respondents again. The grievance of the petitioner herein is that thereafter, vide order dated 30.01.2020 by noticing the fact that Wakf Board has granted lease on 01.12.2019 to the private respondents, the Civil Suit was dismissed as having become infructuous.

Learned counsel for the respondents however makes submissions on merits as well it has been stated in the reply dated 22.10.2020 on behalf of respondents No.2 & 3 that the lease orders have already been placed on record as Annexures R2/1 which clearly shows that the answering respondents have given the land on lease basis to respondents No.4 , 6 and one Raghav Jindal upto 31.10.2022.

In this view of the matter, after hearing both the counsel for the parties, the present Revision Petition as prayed for, is disposed of with the following directions:-

- (i) The petitioner is at liberty to file a fresh suit on the same cause of action and along with the prayers earlier made, he may also challenge lease dated 01.12.2019.
- (ii) The petitioner would apply for waiving of two months' period of notice before filing the suit and counsel for the respondents submits that the respondents will not object to the said waiving of, of the said period.

Ordered accordingly.

(GIRISH AGNIHOTRI)
JUDGE

11.01.2021
anju rani

Whether speaking/ reasoned:
Whether Reportable:

Yes/No
Yes/No