

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

113

CR-153-2018

Date of decision : 14.07.2022

Haryana Wakf Board

...Petitioner

Versus

Sunny Batra and another

....Respondents

CORAM : HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. G.S.Bhatia, Advocate
for the petitioner.

Mr. N.K.Malhotra, Advocate
for respondent No.2.

ANIL KSHETARPAL, J. (ORAL)

The Haryana Wakf Board has assailed the correctness of order passed by the Wakf Tribunal while dismissing its suit under Order 17 Rule 3 CPC on account of failure to produce evidence. The Tribunal has observed that despite five opportunities, no evidence has been produced by the Wakf Board.

In this suit, the Wakf Board claims possession and relief of mesne profit for illegal occupation of the Wakf property which is stated to be a Mosque. It has been asserted that the property in question is notified as Wakf property. Defendant No.1 was proceeded against *exparte* whereas defendant No.2 claims that it is a part of a house. Defendant No.2 claims that the property in dispute is an evacuate property.

Heard learned counsel representing the parties at length and with their able assistance perused the paper-book.

No doubt, the Tribunal has passed the order after granting five opportunities to the petitioner, however, one cannot overlook the fact that such organizations are dependant upon its employees, who sometimes do not, properly, safeguarded the interests of the organization in which they serve. The Wakf Board has been constituted in order to protect the Wakf properties. The Tribunal has been conferred exclusive jurisdiction to decide such questions. In these circumstances, the Court should have granted another opportunity subject to payment of costs before passing a drastic order which forecloses the rights of the petitioner.

Keeping in view the aforesaid facts, the order under challenge is set aside. The suit is restored to its original number. The petitioner shall be granted two opportunities within a period of two months to conclude its entire evidence. This opportunity shall be subject to payment of costs of Rs.5,000/- which shall be payable to petitioner.

Disposed of.

14.07.2022
anju

(ANIL KSHETARPAL)
JUDGE

Whether reasoned/speaking? Yes/No
Whether reportable? Yes/No