

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

RSA-6990-2016 (O&M)  
Date of decision: 18.07.2022

Ajit Singh and another

... Appellants

Vs.

Punjab Wakf Board

... Respondent

**CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN**

Present: Mr. Abhinav Gupta, Advocate  
for the appellants.

\*\*\*\*\*

**ARVIND SINGH SANGWAN, J. (ORAL)**

Prayer in this appeal is for setting aside the judgment and decree dated 18.04.2012 passed by the Civil Judge (Sr. Divn.), Amritsar, vide which suit filed by the appellants praying for a decree of permanent injunction regarding possession over the disputed property, as detailed in the plaint, was dismissed as well as the judgment and decree dated 20.11.2015 passed by the lower appellate Court, vide which appeal filed by the appellants, was also dismissed.

Brief facts of the case, as noticed in judgment of the lower appellate Court, are as under: -

*“In brief, case of the plaintiffs is that they are in possession of land bearing khasra No.4/20 (7-12), 28/13 (7-11), 14 (7-11), 15 (7-*

*11), 4/21 (8-0), totaling 37 kanals 15 marlas, situated in Village Dharike, Tehsil and District Amritsar. Earlier, this land was leased out to Dilbagh Singh, father of the plaintiffs, at the rate of Rs.925/- per month. Dilbagh Singh used to pay lease amount against receipts, to the respondent (hereinafter referred to as 'defendant'). Dilbagh Singh died in January, 1998. After his death, all his legal heirs including plaintiffs inherited him and became lessee of the suit property. Plaintiffs have been paying lease amount to the defendant, after the death of Dilbagh Singh and are in possession of the suit land. That defendant is now pressurizing the plaintiffs to enhance lease amount, to get the land transferred in their name as lessee. Furthermore, officials of defendant department are claiming big amount for transfer of lease in the name of plaintiffs. They are threatening to otherwise dispossess the plaintiffs from the suit land forcibly. They were requested number of times not to do so, but they are adamant. In case they succeed in their design, plaintiffs will suffer irreparable loss. It was prayed that a decree for injunction be passed restraining the defendant to interfere in peaceful possession of the plaintiffs over the suit land and from taking forcible possession thereof.*

*On notice, defendant appeared and filed written statement contesting the suit. Preliminary objections regarding maintainability of the suit, plaintiffs having no locus standi and*

*cause of action to file the suit, plaintiffs being estopped by their act and conduct to file the suit and having suppressed material facts, suit having been misdescribed, suit being barred under Order 7 Rule 11 CPC and under Section 41 (H) of Specific Relief Act and for want of service of notice under Section 89 of Wakf Act were taken. It was further contended that defendant board is owner of the suit land. Dilbagh Singh, father of the plaintiffs, took the suit land on lease for a fixed period. He died and thereafter, plaintiffs came in possession of the suit land. However, their possession was unauthorized and illegal. They did not execute lease deed in favour of the defendant board. Defendant board filed the suit for possession of the suit land under Section 77 of Tenancy Act, by way of ejectment of plaintiffs from the suit land, which was ex-parte decreed vide order dated 27.03.2003. Plaintiffs moved an application under Order 9 Rule 13 CPC, which was disposed of. Thereafter, defendant board filed execution application and took possession of the suit land on 17.04.2008 in due course of law. Since then, defendant board is in actual physical possession of the suit land and plaintiffs have no concern with the same. Question of granting injunction to the plaintiffs, therefore, does not arise. While replying on merits, aforementioned pleas were reiterated. It was finally prayed that suit be dismissed.”*

Learned counsel for the appellants has argued that both the Courts

below have not properly appreciated the statements made by plaintiffs' witnesses with regard to possession over the disputed property. It is further submitted that it is case set up by the plaintiffs that defendant-Punjab Wakf Board leased out the suit land to their father i.e. Dilbagh Singh and after expiry of the lease, they continued to be in possession by making payment of the lease amount, therefore, the defendant has no right to interfere in their possession.

To the contrary, defendant-Punjab Wakf Board examined Estate Officer, who appeared as DW1 and stated that Punjab Wakf Board is owner of the disputed property, which was given on lease to father of the plaintiffs namely Dilbagh Singh and after his death, plaintiffs became in illegal possession of the same and suit is already filed by the defendant-Punjab Wakf Board under Section 77 of Tenancy Act, in which an order of eviction was passed against the plaintiffs on 27.03.2003 and possession was handed over to the defendant-Punjab Wakf Board on 17.04.2008 by following due process of law.

Both the Courts below recorded a finding that the plaintiffs have failed to prove their possession over the suit property.

After hearing learned counsel for the appellants, I find that it is a simplicitor case filed on the basis of possession praying for a decree of permanent injunction, in which both the Courts below have concurrently held that possession was delivered to the defendant-Punjab Wakf Board in execution of an order passed by the Court and the plaintiffs are not in possession of the suit property.

No question of law, much less substantial question of law, is involved in this appeal.

In view of the above, finding no illegality or infirmity in the findings of fact recorded by both the Courts below, present appeal is dismissed.

**[ ARVIND SINGH SANGWAN ]**  
**JUDGE**

18.07.2022  
*vishnu*

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No