

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

312

CR-798-2023

Date of Decision : 21.09.2023

Ram Karan and others

.....Petitioners

Versus

Haryana Wakf Board and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present : Mr. Raghav Sharma, Advocate for the petitioner.

Mr. Ghulam Nabi Malik, Advocate for respondent No.1.

Mr. Satish Chaudhary, Advocate for respondents No.2 & 3.

NAMIT KUMAR, J. (ORAL)

1. The instant revision petition has been preferred by the petitioners impugning the order dated 02.12.2022 passed by learned Wakf Tribunal, Ambala whereby an application filed by the petitioners seeking permission to remove the shuttering from the suit property has been dismissed.

2. Briefly stated the facts of the case as pleaded in the petition are that respondent No.1/plaintiff-Board has filed a suit under Section 38 of Specific Relief Act for permanent injunction restraining the petitioners/defendants from encroaching the suit property with the averments that all the wakf property in Haryana are under the control and management of the plaintiff-Board and as per the Gazette Notification dated 19.12.1970, plaintiff is the owner of wakf property i.e. Taskia/Masjid measuring 552 sq. ft. It was stated that on 19.12.2021 local Muslims of village Issarheri submitted written complaint to

plaintiff-Board stating that the petitioners/defendants are trying to encroach/demolish Taskia/Masjid. Notice was issued in the suit and on 07.01.2022 the petitioners/defendants were appeared and case was fixed for 04.02.2022 for filing written statement and reply to stay application. On 07.01.2022 the status quo order till the next date of hearing was also passed by the trial Court. On the next date of hearing the petitioners/defendants have filed the written statement and other than the preliminary objections on the ground of maintainability, cause of action and locus standi, the reply on merit was filed with the averments that Mata Shera Wali Mandir is in existence for the last more than 80 years in abadi deh land of the village Issarheri. There is a registered committee of the mandir known as 'Mata Sherawali Mandir Committee' bearing registered No.3168 of 2001-02 vide certificate issued on 11.02.2022. Since the Mandir building was very old, the committee started reconstruction of the Mandir after demolishing the wall on 19.12.2021 after passing valid resolution by the Committee. The lintel of the Mandir building was put on 06.01.2022 and due to status quo order dated 07.01.2022, the petitioners are not able to remove shuttering of the lintel on the suit property. The petitioners moved an application for removal of shuttering of the lintel on the suit property which has been dismissed by learned Wakf Tribunal, Ambala vide impugned order dated 02.12.2022. Aggrieved against the said order, the petitioners have preferred the instant revision petition.

3. Learned counsel for the petitioners submits that the petitioners had put the lintel on 06.01.2022 whereas the status quo order

was passed on 07.01.2022. Due to status quo order, the petitioners are unable to remove the shuttering and they have to bear rent of Rs.800/- per day of the shuttering without any fault on their part. The shuttering installed for such a long period itself is dangerous and can fall on anybody. The Wakf Tribunal, Ambala vide impugned order dated 02.12.2022 has dismissed the application filed by the petitioners, without appreciating the evidence on record and also without considering the facts and circumstances of the present case. Therefore, the present revision petition may be allowed and impugned order dated 02.12.2022 may be set aside.

4. On the other hand learned counsel for the respondents submit that the petitioners have carried out the construction on the suit property despite the status quo order dated 07.01.2022. There is no illegality or perversity in the impugned order dated 02.12.2022 passed by learned Wakf Tribunal, Ambala. Therefore, the present revision petition may be dismissed.

5. I have heard learned counsel for the parties and perused the relevant documents.

6. Admittedly in the present case, there is a dispute regarding the suit property which according to the respondents is a Takia/Masjid and according to the petitioners it is a Mandir. A suit for permanent injunction was filed by the respondent-Wakf Board which is still pending before the trial Court. On 07.01.2022 status quo order was passed by the trial Court. However, the petitioners started re-construction in the suit property on 19.12.2021 and put lintle on the

CR-798-2023

4

building on 06.01.2022, prior to passing of status quo order, which fact has also been mentioned by the petitioners in para 4 of their written statement filed before the trial Court on 04.02.2022. Due to status quo order passed by the trial Court, the petitioners were not able to remove shuttering of the lintle from the suit property. The petitioners had filed application on 24.02.2022 seeking permission to remove the shuttering of the lintle which was dismissed by learned Wakf Tribunal, Ambala on 02.12.2022 after a gap of more than 09 months due to which the petitioners are unnecessarily bearing rent of shuttering since 06.01.2022. If shuttering of the lintle is removed from the suit property, it will not cause prejudice to any of the party.

7. Keeping in view the facts and circumstances of the present case, the instant revision petition is allowed and the impugned order dated 02.12.2022 passed by learned Wakf Tribunal, Ambala is hereby set aside and application filed by the petitioner for removing the shuttering from the suit property is allowed. However, it will be without prejudice to the rights of the parties and will have no bearing on the civil suit pending between the parties.

21.09.2023

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(NAMIT KUMAR)
JUDGE

Whether Speaking/reasoned
Whether Reportable

Yes/No
Yes/No