

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

119

2023:PHHC:136446

**CR-6949-2017(O&M)
Date of decision: 19.10.2023**

HARYANA WAKF BOARD

..Petitioner

Versus

MUNICIPAL COUNCIL REWARI & ORS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Amit Kumar Goyal, Advocate
for the petitioner.

ANIL KSHETARPAL, J(Oral)

1. In this revision petition, the correctness of the judgment passed by the Haryana Wakf Tribunal has been assailed. The plaintiff (petitioner herein) filed a suit for grant of decree of declaration that the Board is the owner of property located at Railway Road, Rewari. Pursuant to the gazette notification dated 10.12.2004, it was claimed that defendant No.4 and 5 were in possession of the property as tenants since 14.11.1947. It was further asserted that there was a 'Masjid' prior to the partition of the country.

2. The defendants while contesting the suit contended that the site plan and the boundaries of the property in dispute are wrongly mentioned. It was alleged that the suit property has never remained in tenancy of Sh. Hari Chand. It was claimed that the property belongs to the Municipal Committee, Rewari, and the remaining respondents are in possession of the same as licensee from Municipal Committee.

3. On examination of the pleadings, the following issues were framed:-

*“1. Whether the plaintiff is owner in possession of the suit property as alleged? OPP
2. Whether the suit is not maintainable in the present form? OPR*

3. *Whether the plaintiff is estopped from filing the suit by his own act and conduct? OPR*
4. *Whether plaintiff has no cause of action and locus standi to file the present suit? OPR*
5. *Whether suit is hit by principle of res judicata? OPR*
6. *Whether the suit is time barred? OPR*
7. *Whether the suit is bad for want of notice under Section 52 of H.M. Act? OPR*
8. *Whether the plaintiff has not approached the Court with clean hands? If so, its effect? OPR*
9. *Relief"*

4. In order to prove the case, the petitioner examined Sh. Narender Gupta, draftsman as PW-1, Mohd. Israil, Estate Officer of Haryana, Wakf Board as PW-2.

5. On the other hand, Sh. Manoj Yadav, Executive Officer of Municipal Committee was examined and in documentary evidence, Ex.D-5 to Ex.D-35 were produced. The Haryana Wakf Tribunal held that the petitioner failed to prove that the property was a wakf property rather on perusal of Ex.D-11, the Court held that the possession of the land in dispute was with Sh. Ram Chander as a licensee with effect from 16.04.1946 and therefore, the case set up by the plaintiff is wrong. The documents were also produced to prove the payment of license fee to the Municipal Committee.

6. It is evidence that the petitioner has not produced sufficient evident to prove that the property in dispute is a wakf property. Mere production of notification in the official gazette is not sufficient to prove that the property is wakf property. The plaintiff was required to lead evidence to prove that the aforesaid property was dedicated to the wakf or there was continuous user of the property as wakf property.

7. The learned counsel representing the petitioner failed to draw the attention of the Court to any such material.

8. In view of the aforesaid facts and discussion, no ground to interfere is made out.
9. Dismissed accordingly.
10. All the pending miscellaneous applications, if any, are also disposed of.

October 19th, 2023
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*