

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

R-338

RSA No.373 of 1992

Date of Decision : 08.02.2023

Punjab Wakf Board

....Appellant

VERSUS

Sai Dass

....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Gurbachan Singh Bhatia, Advocate for the appellant.

Mr. Deep Inder Singh Walia, Advocate for the respondent.

ALKA SARIN, J. (Oral)

The present appeal has been preferred by the plaintiff-appellant against the concurrent findings of both the Courts below.

The brief facts relevant to the present *lis* are that the plaintiff-appellant - Punjab Wakf Board through its Secretary - filed the present suit describing the property in dispute to being Wakf property and as Shamlat Musalman Maqbooza Wakf and further described as Gair Mumkin Kabristan, which had allegedly been used for the said purpose for the last more than 100 years. It was averred in the plaint that the property was Muslim Wakf property and managed, controlled and administered by the plaintiff-appellant. The case further set up was that the defendant-respondent being a trespasser had no right to remain on the land and the plaintiff-appellant was entitled for its recovery and restoration. It was also averred in the plaint that the suit property was part of khasra no.917 and that the defendant-respondent had illegally encroached upon the same. The suit was contested by the defendant-respondent who claimed that the suit property is

neither part of khasra no.917 nor khasra no.917 including the property in dispute is the property of the plaintiff-appellant. Replication was filed. On the basis of the pleadings of the parties, the following issues were framed :

1. Whether the suit land is a part of khasra no.917 situated at village Barwala ? OPP
2. Whether the suit land is a Wakf property and if so, to what effect ? OPP
3. Whether the plaintiff is entitled for possession of the suit land as alleged ? OPP
4. Whether the suit is time barred ? OPD
5. Whether the suit is not maintainable in the present form ? OPD
6. Whether the plaintiff has become owner in possession of the suit land by way of adverse possession? OPD
7. Relief.

It was held by the Trial Court that the plaintiff-appellant had failed to show any evidence on the record that the suit land was part of khasra no.917. On issue no.2, it was held that khasra no.917 was Wakf property, however, since the plaintiff-appellant had failed to connect the suit land with khasra no.917, the issue was decided against the plaintiff-appellant and in favour of the defendant-respondent. On issue nos.4 and 6, the suit was held to be time barred. The suit of the plaintiff-appellant was dismissed vide judgment and decree dated 30.07.1988. Aggrieved by the said judgment and

decree an appeal was preferred by the plaintiff-appellant which was dismissed by the lower Appellate Court vide judgment and decree dated 10.01.1991. Hence, the present regular second appeal.

Learned counsel for the plaintiff-appellant has contended that there was sufficient evidence on the record to prove that the suit land was part of khasra no.917. He has relied upon the oral testimonies of two witnesses produced by the plaintiff-appellant and prayed that the appeal be accepted and the suit of the plaintiff-appellant be decreed.

Per contra learned counsel for the defendant-respondent has contended that there is no evidence on the record to connect the suit property with khasra no.917. It is submitted that both the Courts have reached concurrent findings of fact which warrant no interference by this Court.

I have heard learned counsel for the parties.

In the present case the finding returned by the Trial Court that khasra no.917 was owned by the Wakf Board was not challenged by the defendant-respondent. The judgment and decree passed by the Trial Court on 30.07.1988 was only challenged by the Wakf Board on the ground that on the basis of evidence led by them it was proved that the suit property forms part of khasra no.917. Learned counsel for the plaintiff-appellant has not been able to show any documentary evidence to connect the suit property with khasra no.917. Merely on the basis of bald oral statements, without any documentary proof, the suit cannot be decreed.

In view of the above, I do not find any illegality or infirmity in the judgments and decrees passed by both the Courts below. Pure findings of

fact have been returned by both the Courts below which call for no interference in the present appeal. No question of law, much less any substantial question of law, arises in the present case. The appeal, which is wholly devoid of any merit, is accordingly dismissed. Pending applications, if any, also stand disposed off.

Dismissed.

**(ALKA SARIN)
JUDGE**

**08.02.2023
jk**

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO