

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

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2023:PHHC:104632

**RSA-2760-1997(O&M)
Date of decision: 11.08.2023**

JAGJIT LAL & ANR

..Appellants

Versus

PUNJAB WAKF BOARD & ORS.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Krishan Singh Dadwal, Advocate
Ms. Neha Jain, Advocate
for the appellants.

Mr. I.P.S. Brar, Advocate
for Mr. P.S. Brar, Advocate
for respondent No.1.

Mr. Satbir Rathore, Advocate
for respondent No.42.

ANIL KSHETARPAL, J(Oral)

1. While filing the second appeal, the plaintiffs assail the correctness of the concurrent findings of fact arrived at by the Courts below. Their suit for grant of decree of declaration that they are the joint owners in possession of the property along with the defendants No.8 to 30 with a consequential relief of permanent injunction and in the alternative for the grant of decree of possession has been dismissed by both the Courts below. It is the case of the plaintiffs that their predecessors permitted the mohammedans of village Dala to bury their dead bodies in the land in dispute, which was converted into a graveyard. However, after the partition of the country and creation of the Pakistan in the year 1947, the mohammedans migrated from the said area and the permission came to an end. It was alleged that the Punjab Wakf Board has wrongly got the land mutated in its favour. The defendant-Punjab Wakf Board while contesting

the suit claimed that the plaintiffs are not owners in possession of the property. In November, 1971, a gazette notification was issued declaring the property to be a Wakf property. Defendant No.1 and its predecessors are in the continuous possession of the property in dispute and mohammedans are still burying their dead bodies in some part of the land, whereas, remaining land is in cultivating possession of lessees of the Wakf Board. Both the Courts noticed that PW-6, one of the plaintiffs while appearing in rebuttal evidence admitted that he or his ancestors never cultivated the land in dispute after it was given to mohammedans for burying the dead bodies. He also admitted that at present, the property is managed and controlled by the Punjab Wakf Board and it is in possession of either Wakf Board or its lessees.

2. The learned counsel representing the appellant does not dispute the correctness of the aforesaid findings of fact. However, learned counsel representing the appellant submits that the First Appellate Court has found that major part of the property is now used for agricultural purpose and, therefore, the usage of the property for graveyard has come to an end.

3. This Court has considered the submissions of the learned counsel representing the appellant.

4. On a Court question, the learned counsel representing the appellant failed to draw the attention of the Court to any conditional dedication or gift on the part of the predecessor of the plaintiff, which may enable them to claim back their property.

5. It is evident that the plaintiffs have neither proved their ownership nor possession.

- 6. Hence, no ground to interfere is made out.
- 7. Dismissed.
- 8. All the pending miscellaneous applications, if any, are also disposed of.

August 11th, 2023

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*

(ANIL KSHETARPAL)

JUDGE