

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

108

2023:PHHC:098491

RSA-3668-2017

Date of decision: 01.08.2023

HARCHAND SINGH (DECEASED) THROUGH LR ..Appellant

Versus

PUNJAB WAKF BOARD, CHANDIGARH ..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.Yagsimant Attri, Advocate
for Mr. R.K.Bansal, Advocate
for the appellant.

ANIL KSHETARPAL, J(Oral)

1. The correctness of the concurrent findings of fact arrived at by the Courts below is challenged by the defendant in second appeal. The respondent's suit for the grant of decree of possession with respect to the land measuring 18 kanals, has been decreed by the Courts below. The appellant before this Court was inducted as lessee under the Wakf Board. He paid the lease money upto 2006-07. Thereafter, neither lease was renewed nor he paid any amount. Thus, both the Courts decreed the suit.

2. The learned counsel representing the appellant contends that the suit for possession before the Civil Court is not maintainable because of the expiry of the contractual term of lease, the appellant will become statutory tenant in accordance with the provisions of Punjab Tenancy Act, 1887. He fairly admits that though this objection has never been raised before the Courts below, however, this goes to the root of the matter.

3. This Court has considered the submissions.

4. The provisions of the Punjab Tenancy Act, 1887, are governing tenancies of the agricultural land. However, Section 56 of the Wakf Act,

1995 (hereinafter referred to as the '1995 Act'), is a special provision to

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govern lease of wakf property. It has been provided that wakf property beyond the term of three years shall be voidable. The 1995 Act, being the special law for wakf, is a specific act dealing with the property, which belongs to wakf. Moreover, as per definition of the expression ‘encroacher’ in Section 3(ee) of the 1995 Act, the lessee after expiry of the term of lease would be treated as encroacher.

5. Hence, the provisions of the Punjab Tenancy Act, 1887 shall not override the provisions of 1995 Act as special law would prevail over general law. Therefore, properties belonging to wakf would essentially be governed by the 1995 Act.

6. In view of the aforesaid facts, no ground to interfere is made out.

7. Dismissed accordingly.

8. All the pending miscellaneous applications, if any, are also disposed of.

August 01st, 2023
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(ANIL KSHETARPAL)
JUDGE

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