

2024:PHHC:025070

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

**RSA-2148-1990 (O&M)**  
Date of decision: 22.02.2024

Punjab Wakf Board, Ambala

....Appellant

Versus

Kartar Singh Granthi through LRs and another

..Respondents

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present:- Mr. G.N.Malik, Advocate for the appellant

**ANIL KSHETARPAL, J (Oral)**

**CM-9947-C-2023**

Allowed as prayed for, subject to all the just exceptions.

The legal representatives of the deceased respondent no.1, as mentioned in para 2 of the application, are permitted to be brought on record, for the purpose of defending the present appeal.

Amended memo of parties is taken on record.

**Main case**

1. In this appeal, the correctness of the concurrent finding of facts arrived at by the courts below is challenged by the plaintiff. The suit filed by the plaintiff (appellant herein) for possession of 560 square feet area was dismissed by both the courts below. In substance, the plaintiff claims that the suit property is part of Wakf property as per the Government of India Gazette published on 07.08.1971. The defendant no.2, while contesting the suit, claimed that he is in open and hostile possession of the said property for last more than 12 years and therefore, he has become owner by way of adverse possession. The courts found

that the plaintiff has not produced survey register to prove that there was any survey, before issuance of the notification. The court further found that there is no evidence of dedication of the property to the religious or charitable cause and the plaintiff has also failed to prove its user for such purpose for a long period of time. The testimony of the witnesses examined by the plaintiff were not found reliable.

2. Learned counsel representing the appellant submits that the survey must have been conducted, however, it was not produced.

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

4. The Court is required to decide the case on the basis of the material produced by the parties. The plaintiff has to stand on its own legs. The plaintiff came to the court claiming decree of possession. Hence, the Board was required to prove its case. Reliance in this regard can be placed on **Salem Muslim Burial Ground Protection Committee vs. State of Tamil Nadu and others 2023 AIR (SC) 2769.**

5. Keeping in view the aforesaid facts, no ground to interfere is made out.

6. Hence, dismissed.

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

22.02.2024

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)  
JUDGE