

2024:PHHC:054423

152 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Shiv Kumar and others Vs. **...Appellants**
Punjab Wakf Board, Ambala Cantt.
and others **...Respondents**

1. In this regular second appeal, the defendants assail the correctness of concurrent findings of fact arrived at by the Courts below while decreeing the Punjab Wakf Board's suit for possession of Takia Azam Shah comprised in Khasra Nos.92 to 96 located at Pinjore, District Panchkula.

2. It is case of the plaintiff that the defendants have illegally occupied the property. The defendants while contesting the suit claimed that the previous suit filed by the plaintiff was decided against it and Sh. Munshi Ram was the owner of the property. He has sold the lease hold rights to the defendants.

3. Upon appreciation of evidence both the Courts below have held that the property in question is a Wakf property by virtue of notification issued in the year 1971. It has also been held that the defendants have failed to prove their right, title or interest in the property.

4. Alongwith the appeal, an application under Order 41 Rule 27 of

the Code of Civil Procedure, 1908 for permission to lead an additional evidence has been filed. In order to produce a copy of registered lease deed dated 21.12.1963, executed by Sh. Rasid Ali in favour of Sh. Munshi Ram son of Late Sh. Des Raj and Sh. Kharaiti Lal son of Sh. Devi Dayal. The second document sought to be produced in evidence is sale deed dated 14.08.1968, executed by Sh. Munshi Ram and Sh. Kharaiti Lal in favour of Sh. Munshi Ram son of Sh. Javinda Mal and Smt. Vidaya Wanti wife of Munshi Ram.

5. Learned counsel representing the appellants contends that by virtue of lease deed for a period of 99 years, Sh. Munshi Ram and Kharaiti Lal became lessees, who have transferred their rights in favour of the defendants (appellants).

6. The appellants before this Court are children of Sh. Wallaiti Ram. There is no evidence to link Sh. Wallaiti Ram with Sh. Munshi Ram son of Sh. Javinda Mal. Moreover, the property vests in the Wakf Board. It is not explained as to how Sh. Rasid Ali leased out the property for a period of 99 years.

7. The First Appellate Court has also found that the defendants have failed to explain the mode of transfer of the suit property made by Sh. Munshi Ram in their favour.

8.. Keeping in view the aforesaid discussion, the appeal as well as the application for permission to lead secondary evidence are dismissed.

22.04.2024

neeraj

Whether speaking/reasoned :
Whether Reportable :

(ANIL KSHETARPAL)
JUDGE

Yes	No
Yes	No