

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

**RSA No. 2137 of 1991 (O&M)
Date of Decision: 19.04.2024**

Punjab Wakf Board, Ambala Cantt.,
through its Estate Officer, Chandigarh

..... Appellant

Versus

Sat Paul (since deceased) through LRs and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Gurbachan Singh Bhatia, Advocate
for the appellant / defendant No. 4.

None for respondent Nos. 1 to 7.
(Respondent Nos. 1 to 5 / plaintiffs)
(Respondent Nos. 6 & 7 / defendant Nos. 1 & 2)

Ms. Kavita Arora, Advocate
for respondent No. 8 / defendant No. 3
(Municipal Committee, Sunam)

HARKESH MANUJA, J. (ORAL)

By way of present appeal, challenge has been laid to the judgments & decrees dated 05.03.1987 & 12.12.1990, passed by the learned Sub Judge II Class, Sunam and the learned Additional District Judge, Sangrur, respectively, whereby the suit for permanent injunction filed at the instance of plaintiffs (respondent Nos. 1 to 5 herein / contesting respondents) through their predecessor, stands dismissed.

[2] Briefly stating, two separate portions of the property owned by one Ramesh Kumar son of Tara Chand were purchased by plaintiff No. 1 (respondent No. 1 herein) and plaintiff Nos. 2 to 5 (respondent Nos. 2 to 5 herein) vide registered sale deed dated 03.07.1978 & 04.08.1979 respectively. Respondent No. 1 (Sat Paul) constructed his house thereupon,

whereas respondent Nos. 2 to 5 constructed a boundary wall around the plot besides constructing one room thereupon. It was pleaded that the doors of properties purchased / owned by the plaintiffs were opening into the chowk in dispute and the portion marked ABCDE in the site plan attached alongwith the plaint was being used as path to reach their respective properties of the plaintiffs from the road leading to the chowk. It was also pleaded that the defendants intended to raise construction over the said path by blocking the passage, as such, the suit for permanent injunction was filed restraining the defendants from blocking the same.

[3] By way of separate written statements, the appellant / defendant No. 4 – Punjab Wakf Board admitted the claim of the plaintiffs; however, the remaining defendants contested the suit while stating that 10 feet wide street in front of the houses of the plaintiffs was left for usage in front of their house as an access through the street and the plaintiffs were having no right to use the chowk in dispute, which was owned by the Municipal Committee, as such prayer was made for dismissal of the suit.

[4] The trial Court vide judgment and decree dated 05.03.1987 dismissed the suit filed at the instance of plaintiffs-respondent Nos. 1 to 5, while recording that though the Punjab Wakf Board was the owner of Khasra No. 644, however, it failed to establish on record that the chowk in question formed part of the same. It was further recorded that the disputed chowk was owned by the Municipal Committee, Sunam, as established from the boundaries mentioned in the sale deed (Ex. P1) vide which suit land was purchased by the plaintiffs.

[5] Aggrieved with the judgment and decree dated 05.03.1987 passed by the trial Court, the plaintiffs chose not to file any appeal; however, the appellant-defendant No. 4 (Punjab Wakf Board) preferred an appeal against the findings recorded by the trial Court as regards the ownership over the chowk in question. The Appellate Court vide judgment and decree dated 12.12.1990 dismissed the appeal filed, while upholding the findings recorded by the trial Court.

[6] Impugning the aforesaid judgments and decrees passed by the trial Court as well as the Appellate Court, learned counsel for the appellant submits that there was no dispute that Khasra No. 644 was the property owned by the Punjab Wakf Board and the house in question as well as the chowk formed part thereof; thus the findings recorded by the Courts below were incorrect.

[7] On the other hand, learned counsel for respondent No. 8-Municipal Committee, Sunam, submits that the house in question as well as the chowk were never proved to be forming part of Khasra No. 644 and thus, the same could not be held to be the ownership of appellant-Punjab Wakf Board.

[8] I have heard learned counsel for the parties and gone through the paper-book / relevant record.

[9] A perusal of the record shows that report made by the Local Commissioner as Exhibit DW-4/A was proved on record at the instance of respondent No. 8-Municipal Committee, Sunam through Mr. Satish Kant (DW-4), as per which, it was found that neither the house owned by plaintiff

No. 1 or even the chowk in dispute and also the properties owned by plaintiff Nos. 2 to 5, formed part of Khasra No. 644.

On the contrary, no demarcation report was ever produced or proved on record at the instance of appellant-defendant No. 4 so as to establish that the suit property owned by the plaintiffs vide two separate sale deeds dated 03.07.1978 & 04.08.1979, besides the chowk in question formed part of Khasra No. 644.

In the absence of any such evidence available on record, no illegality of perversity can be found in the concurrent findings recorded by both the Courts below, as per which, the properties owned by the plaintiffs besides the chowk in question never formed part of Khasra No. 644, which was owned by the Punjab Wakf Board and a part thereof was leased out to plaintiff No. 1-respondent No. 1 vide allotment letter dated 25.07.1985, proved on record as Ex. P-4.

[10] In view of the discussion made hereinabove, finding no merit in the present appeal, the same is hereby **dismissed**.

[11] Pending miscellaneous application(s), if any, shall also stand disposed off.

April 19, 2024
'dk kamra'

(HARKESH MANUJA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No