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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-5089-2024 (O&M)
Date of decision : 21.05.2024

Hari SinghPetitioner

versus

State of Haryana and others Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Ajay Jain, Advocate
for the petitioner.

Mr. Rajneesh Chadwal, AAG, Haryana.

Mr. Ghulam Nabi Malik, Advocate
for respondents No.2 and 3.

RAJESH BHARDWAJ, J.

Prayer in the present petition is for quashing the lease order dated 23.08.2023 (Annexure P-8) executed by respondent No.2 in favour of respondents No.4 to 8 and for declaring the execution of lease by respondent No.2 in favour of respondents No.4 to 8 along with consequent proceedings therein as unlawful, the same being wholly arbitrary and illegal.

It has been vehemently submitted by counsel for the petitioner that respondent No.2 issued a lease order vide which area measuring 22170 sq. yards situated at Kosli Road, Jhajjar was leased out from 01.07.2023 in favour of respondents No.4 to 8. He has submitted that admittedly petitioner is in possession of part of the land in dispute. He has submitted that as the possession of the land in dispute is not with the Waqf Board, hence the execution of the lease in favour of respondents No.4 to 8 is nothing but an abuse of the process of the law.

Notice was issued and counsel for respondents No.2 and 3 had vehemently opposed the maintainability of the petition. He submits that the

present petition is not maintainable in view of the relevant provisions of Sections 83, 85 and 89 of the Waqf Act. He has submitted that the provisions of Section 83(2) of the Waqf Act, read as under:-

83(2) Any mutawalli, person interested in a (waqf) or any other person aggrieved by an order made under this Act, or rules made thereunder, may make an application within the time specified in this Act or where no such time has been specified, within such time as may be prescribed, to the Tribunal for the determination of any dispute question or other matter relating to the waqf.

He thus, submits that in view of the specific provisions of the Act, the remedy lies before the Waqf Tribunal which the petitioner has not availed.

Heard. On hearing counsel for the parties and perusing the record, this Court finds that petition is not maintainable in view of the submissions made before this Court. The issue raised by counsel for the petitioner involves the disputed question of facts as well. Thus, there being a specific alternative remedy available under the Act, this Court finds the petition to be not maintainable and hence, the same is disposed of with liberty to the petitioner to avail alternative remedy as available to him under law. It is being clarified that this Court has made no observation on the merits of the case. If the petitioner avails his alternative remedy as available to him under law the concerned Court/Tribunal would adjudicate the same in accordance with law.

21.05.2024
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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