

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

142

SAO-19-2024 (O&M)
Date of Decision: 13.05.2024

Subhash Chand

.....Appellant

Versus

Haryana Wakf Board Jind through Estate Officer

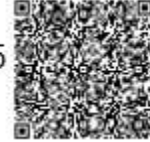
.....Respondent

CORAM: HON'BLE MR.JUSTICE ANIL KSHETARPAL

Present: Mr. Kulbhushan Sharma, Advocate, with
Mr. Abhishek Sharma, Advocate, for the appellant.

ANIL KSHETARPAL. J.

- (1) Heard learned counsel representing the appellant at length.
- (2) First appellate Court has returned of the plaint filed by the plaintiff on the ground that the Waqf Tribunal constituted under Waqf Act, 1995 (hereinafter referred to as the '1995 Act'), has the exclusive jurisdiction to decide such disputes.
- (3) This appeal has been filed to challenge the correctness of the order passed by the first appellate Court.
- (4) Learned counsel representing the appellant has made the following statements:
 - (i) Previously the appellant was relegated to the remedy of Waqf Tribunal, however, subsequently, Waqf Tribunal, held that it has no jurisdiction, thereafter, the case was tried by the Civil Court and decreed, hence, he should not be relegated to the remedy before Waqf Tribunal.
 - (ii) The plaintiff seeks refund of the amount paid by him on account of lease of the property. He submits that plaintiff



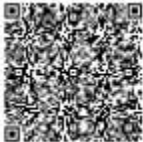
failed to get possession as the lease property was in possession of someone else.

5. This Court has considered the submission in fact, after interpreting the provisions of the Act, the Supreme Court in ***Rashid Wali Beg Vs. Farid Pindari & Ors., 2022(4) SCC 415***, has held that the jurisdiction of the Civil Court is excluded because the jurisdiction of the Waqf Tribunal is very wide. While interpreting the expression “any dispute, question or any other matter, (i) relating to a waqf and (ii) relating to a waqf property” held that the matters with respect to adjudication of dispute are required to be executed by the Tribunal.

6. Learned counsel representing the appellant does not dispute the aforesaid position, however, submits that the first appellate Court in the facts of the case should not have passed the impugned order.

7. This Court has considered the submissions as per the interpretation of the law, the Civil Court does not have jurisdiction. This Court cannot direct that a Court which does not have jurisdiction must decide the dispute. Though, the appellant has filed the petition before the Waqf Tribunal as well as Civil Court, however, now the scope of jurisdiction of Tribunal has been authoritatively decided by the Supreme Court. In such circumstances, it would not be appropriate to direct the Civil Court to continue with the proceedings even after it has been found that the Civil Court has no jurisdiction.

8. As regards last submission, it would be noticed that the plaintiff shall have remedy with the Waqf Tribunal. The question of refund is a



disputed question because the Waqf Board is not admitting the plaintiff’s case.

9. Keeping in view the aforesaid discussion, no ground to interfere, however, the appeal is disposed of with the observation that, if the petitioner files his claim before the Waqf Tribunal, the same shall be decided expeditiously.

13.05.2024
anil

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned :	Yes/No
Whether Reportable:	Yes/No