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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

LPA-1489-2024(O&M)
Date of decision : 11.07.2024

Hari Singh
... Appellant

Versus

State of Haryana and others
... Respondents

**CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA
HON'BLE MR.JUSTICE VIKAS BAHL**

Present: Mr.Ajay Jain, Advocate
for the appellant.

Mr.Naveen S. Bhardwaj, Addl.A.G. Haryana.

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

G.S.SANDHAWALIA, J.(ORAL)

1. Challenge in the present appeal is to the order dated 21.05.2024 of the learned Single Judge passed in CWP-5089-2024 whereby the learned Single Judge had refused to quash the lease order dated 23.08.2023 (Annexure P-8). The primary reason for which the learned Single Judge dismissed CWP-5089-2024 was that the issue involves disputed question of facts and there is alternative remedy available under the Wakf Act. In such circumstances, the present appeal has been filed.
2. Counsel for the appellant submits that there is violation of statutory provision and rules as such and the appellant was in possession of part of land which was leased out. The said argument was also raised and



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repelled by the learned Single Judge, that the writ Court cannot go into the disputed question of fact whether the appellant-petitioner is in possession or not, which would be a matter of evidence. The provision of Section 83 of the Wakf Act 1995 provides that a Tribunal has been constituted for determination of any dispute, question or other matter relating to a waqf or waqf property, eviction of a tenant or determination of rights and obligations of the lessor and the lessee. The law regarding the aspect of alternative remedy stands settled in ***United Bank of India vs. Satyawati Tondon and others, (2010) 8 SCC 110***, whereby the legal principles have been laid down, which read thus:-

“30. The Court while exercising its jurisdiction under [Article 226](#) is duty-bound to consider whether:

(a) adjudication of writ petition involves any complex and disputed questions of facts and whether they can be satisfactorily resolved;

(b) the petition reveals all material facts;

(c) the petitioner has any alternative or effective remedy for the resolution of the dispute;

(d) person invoking the jurisdiction is guilty of unexplained delay and laches;

(e) ex facie barred by any laws of limitation;

(f) grant of relief is against public policy or barred by any valid law; and host of other factors.

The Court in appropriate cases in its discretion may direct the State or its instrumentalities as the case may be to file proper affidavits placing all the relevant facts truly and accurately for the consideration of the Court and particularly in cases where public revenue and public interest are involved. Such directions are always required to be complied with by the State. No relief could be granted in a public law remedy as a matter of course only on the ground that the State did not file its counter-affidavit opposing the writ petition. Further, empty and self-defeating affidavits or statements of Government spokesmen by themselves do not form basis to grant any relief to a person in a public law remedy to which he is not



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otherwise entitled to in law."

3. In such circumstances, we are of the considered opinion that it would not be appropriate for this Court to infringe on the jurisdiction of the Tribunal.
4. Keeping in view the above, we are of the considered opinion that the order passed by the learned Single Judge does not suffer from any infirmity and resultantly, the appeal is dismissed.
5. Pending application, if any, stands disposed of in view of the abovesaid order.

(G.S.SANDHAWALIA)
JUDGE

(VIKAS BAHL)
JUDGE

July 11, 2024
Davinder Kumar

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