

2024:PHHC:036184

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

117

**CRM M-61112 of 2023
Date of Decision: 14.02.2024**

Gulshan Valecha ...Petitioner
Versus
State of Haryana and others ... Respondents

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Huarveer Sharma, Advocate and
Mr. Shobit Phutela, Advocate
for the petitioner.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition under Section 482 Cr.P.C. with a prayer to set-aside the impugned judgment dated 21.11.2019 passed by the Court of Additional Sessions Judge, Hisar and the order dated 18.01.2017 (Annexure P-2) passed by the Court of Judicial Magistrate 1st Class, Hisar, whereby, the complaint filed by the present petitioner/complainant was ordered to be dismissed.
2. The complaint was initially filed by the petitioner/complainant by alleging that the petitioner and Anil Valecha are real brothers and residents of Hisar. Respondent No. 7-Raj Kumar Valecha is the real uncle of the complainant; respondent No.8-Krishan is the brother-in- law of Respondent No.7-Raj Kumar Valecha; and remaining accused persons are the officials of Haryana Wakf Board. The complainant has alleged in his complaint that one shop number

17, Plot No. 17-A, Khangaha Shaha Junej, near Parijat Chowk, Hisar was leased out to him and his brother Anil Valecha, vide order No. 2388/09- 3369 dated 13.08.2009, passed by Haryana Wakf Board. As per aforesaid lease-deed, the complainant as well as his brother were bound to pay rent of Rs.2,000/- per month to Haryana Wakf Board and Haryana Wakf Board was bound to continue the lease-deed after increase of 15% rent. The complainant further alleged that on 18.09.2009, he alongwith his brother made the payment of Rs. 62,000/- as donation; an amount of Rs. 15,750/- as arrears of rent upto 31.12.2008; an amount of Rs.22,000/- upto 30.11.2009; an amount of Rs.20,000/- on 03.06.2011; and on 29.05.2011 an amount of Rs.20,000/- upto 31.07.2011 in five different heads. The complainant also alleged in his complaint that his uncle namely Raj Kumar Valecha (respondent No.7) and Krishan (respondent No.6) have an evil eye on the shop in question and they want to grab the same. They hatched a criminal conspiracy against him and his brother. They (respondents No.7 and 8) in collusion with other accused (officials of Haryana Wakf Board) started manipulating the records of Haryana Wakf Board and pursuant to that conspiracy, respondent No.7-Raj Kumar Valecha addressed a letter dated 12.11.2012, to Chief Executive Officer, H.W.B to get the lease of the aforesaid shop in his name w.e.f. 01.08.2011. On this letter, the officials of the Haryana Wakf Board prepared a false report and submitted the same before Sub Divisional Magistrate, Hisar. The said report was prepared

by Wakf Board without joining the complainant or his brother. As per the report, the lease-deed in favour of complainant and his brother was cancelled w.e.f 05.09.2011. The complainant further alleged that on 05.09.2011, a notice under Section 106 of Transfer of Property Act was issued to him and his brother. In spite of the receipt of notice under Section 106 of Transfer of Property Act, the shop in question was not vacated by them. The Wakf Board has also instituted one civil suit seeking recovery of possession of the shop in question. However, no order in this regard has been passed till date and the complainant and his brother are still in possession of the shop in question. It is further alleged by the complainant that unless and until the Wakf Board obtains vacant possession of the shop in question from the complainant and his brother, the same cannot be leased out to anyone else. The Wakf Board has also illegally issued the receipts of the rent amount for the period 01.08.2011 to 31.07.2014. In this manner, the complainant alleges that document Ex.P-10 to Ex.P-12 are forged and fabricated documents. It has been alleged by the complainant that he made several complaints to the police of Police Station City Hisar, in this regard, but till date no action has been taken by the police. Hence, this complaint. At the end, the complainant prayed that all the accused persons may kindly be summoned under Sections 420, 467, 471 and 120-B of Indian Penal Code and they may kindly be punished accordingly.

3. After the filing of the complaint, the petitioner/complainant examined three witnesses, namely, R.U. Siddiqui, Estate Officer, Haryana Wakf Board, Hisar as PW1, Raj Kumar, Record Keeper, Civil Courts Hisar and the complainant himself as PW3 and exhibited the following documents:-

- | | | |
|------|----------------|--|
| (1) | Ex.P1 | Lease order No. 2388/09-3369 dated 13.08.2009; |
| (2) | Ex.P2 to Ex.P6 | Receipts of rent issued by HWB. |
| (3) | Ex.P7 | Request letter of accused Raj Kumar moved before Chief Executive Officer, HWB, Ambala. |
| (4) | Ex.P8 | Attested copy of report. |
| (5) | Ex.P9 | Notice under Section 106 of T.P. Act. |
| (6) | Ex.P10 | Lease order No. 98 of 15.08.2013 |
| (7) | Ex.P11 | Receipt issued by HWB. |
| (8) | Ex.P12 | Lease Deed executed by H.W.B. Ambala Cantt. And Raj Kumar on 08.05.2013. |
| (9) | Ex.P13 | Attested copy of order dated 24th April, 2015, passed by Hon'ble P&H High Court. |
| (10) | Ex.P14 | Attested copy of orders passed by the Court of Sh. Vijay James, the then learned Civil Judge (Jr .Divn.), Hisar. |
| (11) | Ex.P15 | Attested copy of order dated 22.01.2014 passed by Sh. Y.S. Rathor, the then learned ADJ, Hisar. |
| (12) | Ex.P16 | Attested copy of order dated 12.05.2015 passed by the Court of undersigned; |
| (13) | Ex.P17 | Attested copy of information sought by complainant under R.T.I. Act, 2005 |
| (14) | Ex.P18 | Certified copy of plaint filed by complainant alongwith his brother Anil Valecha. |
| (15) | Ex.P19 | Attested copy of application under Order 1 Rule 10 of CPC moved by Raj Kumar and affidavit of Raj Kumar Valecha |
| (16) | Ex.P20 | Attested copy of reply to the application under Order 1 Rule 10 CPC |
| (17) | Ex.P21 | Affidavit of Raj Kumar Valecha |
| (18) | Ex.P22 | Certified copy of order dated 13.08.2015 |

passed by Sh. S.K. Sharma, the then learned ASJ, Hisar.

4. After the recording of the preliminary evidence, the trial Court found that there was no ground to proceed against the respondents/accused and vide order dated 18.01.2017 (Annexure P-2), the trial Court dismissed the complaint filed by the present petitioner. The petitioner filed a revision petition before the Sessions Court and vide impugned judgment dated 21.11.2019 (Annexure P-1), the learned Revisional Court dismissed the revision filed by the present petitioner.

5. Learned counsel for the petitioner submits that both the Courts had dismissed the complaint filed by the petitioner without application of judicial mind. In fact, the petitioner had led sufficient evidence to show that the offence was made out against the respondents. Learned counsel further contends that the lease deed bearing lease order No. 2388/09/3369 dated 13.08.2009 (Annexure P-3) was entered into between the petitioner and his brother and the Haryana Wakf Board should have issued notice to the petitioner and his brother. However, no steps were taken by the Wakf Board and the lease deed was cancelled in a fraudulent manner. Even, the story has been coined that the lease was originally entered into between Haryana Wakf Board and the father of the petitioner and respondent No. 7. Learned counsel further contends that even a suit was filed by the petitioner and his brother to restrain the Haryana Wakf Board from interfering into their peaceful possession and further from

evicting them from the suit property. In the said suit, the Haryana Wakf Board had acknowledged that respondent No. 7 had no claim against the said shop/suit property and wrongly passed the impugned orders. The Courts had completely overlooked the existence of the lease deed between the petitioner and his brother on one hand and Haryana Wakf Board on the other hand and in view of the same, the petitioner and his brother had paid the arrears of shop/property vide receipts (Annexure P-4). Even, the report (Annexure P-5) was prepared by the Haryana Wakf Board at the back of the petitioner and his brother and they were never provided any hearing by the Wakf Board. Learned counsel further contends that both the Courts had completely overlooked the averments made in the complaint in the present case. Thus, the impugned orders are legally unsustainable.

6. I have heard the learned counsel for the parties and perused the record.

7. While dismissing the revision petition filed by the petitioner, the Revisional Court had recorded the following findings:-

“7. It is very much evident that the suit property was given on lease by Haryana Wakf Board to the grand-father of the revisionist since time immemorial. After death of grand-father of the revisionist, the suit property had come to the father of the revisionist namely Sadanand and his uncle namely Raj Kumar. The lease deed dated 13.08.2009 was executed by Haryana Wakf Board on the affidavit of revisionist and his brother to the effect that they are in exclusive possession of the suit

property. However, the said affidavit was given wrongly by the revisionist because the half share of the property was allegedly possessed by the respondent No.6 Raj Kumar Valecha who is uncle of revisionists. When the Haryana Wakf Board came to know about this error, they immediately issued notice under Section 106 of the Transfer of Property Act to the revisionist and executed lease deed dated 15.08.2013 in favour of respondent No.6. Even further litigation started between the parties and the revisionist has been evicted from the suit property by the order of Civil Court. The Civil Court has also admitted that Raj Kumar Valecha is in possession of the suit property to the extent of ½ share. All these facts have been concealed by the revisionist intentionally and the complaint has been filed simply disclosing the fact that previously the suit property was given to the revisionist on lease and subsequently a lease deed was executed in favour of respondent No.6 in a wrong manner. The complainant intentionally did not disclose the entire facts and has not come to the Court with clean hands. The learned lower Court rightly observed that the revisionist has intentionally not placed on record the certified copies of civil litigation and entire true facts. The complainant also did not disclose that Raj Kumar was tenant in the suit property alongwith them and wrongly obtained the lease order from Haryana Wakf Board. As such, the complaint filed by the revisionist was rightly dismissed by the learned lower Court. The order dated 18.01.2017 does not suffer from any illegality or irregularity and does not call for any interference”.

8. From the above referred findings, it is apparent that in the present case, the controversy between the parties is purely a civil dispute and has been wrongly given the colour of criminal offence by the present petitioner. Even though, the petitioner/complainant had filed a complaint under Sections 166, 218, 418, 420, 468, 471 and 120-B IPC, Police Station Civil Lines, Hisar, however, from the averments made in the complaint, it is apparent that the ingredients of the said offences are completely missing in the facts and circumstances of the present case. Apart from that, even no evidence was led by the petitioner/complainant to show that any of the accused had committed the said offence. Rather, the preliminary evidence led by the petitioner/complainant completely suggested that it was a civil dispute between the family members and Haryana Wakf Board. Thus, the impugned judgment dated 21.11.2019 (Annexure P-1) passed by the Additional Sessions Judge, Hisar is based on correct appreciation of facts and law and is ordered to be upheld.

9. Apart from that, the impugned judgment was passed by the Revisional Court on 21.11.2019, whereas, the present petition has been filed by the petitioner on 24.11.2023 after a period of about 04 years. Even though, the period of limitation has not been prescribed by the statute to file a petition under Section 482 Cr.P.C., still, the petitioner was expected to challenge the impugned judgment within a

reasonable time period and even on account of such inordinate delay in filing the present petition, the petition is liable to be dismissed.

10. In view of the above discussion, there is no merit in the present appeal and the same is ordered to be dismissed.

14.02.2024	(N.S.SHEKHAWAT)
amit rana	JUDGE
Whether reasoned/speaking	: Yes/No
Whether reportable	: Yes/No