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

Date of decision : 07.04.2026

(i) RSA-946-2022 (O&M)

Davinder Pal Singh Gill

...Appellant

Versus

Punjab Wakf Board and others

...Respondents

(ii) RSA-731-2022 (O&M)

Davinder Pal Singh Gill

...Appellant

Versus

Punjab Wakf Board and others

...Respondents

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Sandeep K. Sharma, Advocate,
for the appellant(s).

HARPREET KAUR JEEWAN, J. (Oral)

CM-3040-C-2022 IN RSA-946-2022

CM-2187-C-2022 IN RSA-731-2022

Prayer in the application(s) is for condonation of delay of 74 days and 44 days, respectively, in filing the appeal(s).

In view of the averments made in the application(s), which are supported by duly-sworn affidavit(s) of Satwant Singh Gill, father and attorney of the appellant, present application(s) are allowed as prayed for, subject to all just exceptions.

Consequently, delay of 74 days and 44 days, respectively, in filing the appeal(s), is condoned.



Main case(s)

1. The appellant has filed Regular Second Appeal (RSA-946-2022) assailing the dismissal of the First Regular Appeal filed by the Punjab Wakf Board-respondent, i.e. Civil Appeal No.208 of 2018, by the First Appellate Court-Additional District Judge-I, Rupnagar.

1.1 The appellant has also filed another Regular Second Appeal (RSA-731-2022), assailing the judgment and decree passed by the First Appellate Court regarding dismissal of First Regular Appeal filed by the plaintiff (appellant herein), i.e. Civil Appeal No.202 of 2018.

2. As per the facts in brief, the appellant-plaintiff filed a suit against the respondent-Punjab Wakf Board and private respondents, seeking the relief of possession, mandatory injunction and a direction to the defendants to pay compensation as mesne profit till the actual delivery of the possession of the suit property to the plaintiff. A declaration was also sought that the plaintiff is entitled for compensation.

2.2 The plaintiff has pleaded that the Punjab Wakf Board is the owner of the suit land, which had been leased to the plaintiff by way of execution of *Qabuliat Nama*/lease deed by the Punjab Wakf Board. The plaintiff had deposited the lease amount of Rs.63,000/- and also the arrears of Rs.59,000/- along with donation amount of Rs.3,25,000/- and other charges. It is further pleaded that private respondents filed a Civil Suit for injunction, but the same was rejected.

Thereafter, private respondent Nos.3 to 5 again filed a Civil Suit against the Wakf Board; the plaintiff was not impleaded as a party in



the said Civil Suit. It was contended that the plaintiff is entitled to the possession of the suit property on the basis of *Qabuliat Nama* executed by the Wakf Board, but the Wakf Board is hand in glove with the private respondents; neither the possession has been handed over to the plaintiff, nor the amount received from the plaintiff has been returned; hence the plaintiff sought relief of possession as well as declaration.

2.3 The suit was contested by the respondents.

2.4 The trial Court framed the following issues:-

1. Whether the plaintiff is entitled to possession of suit property, as prayed for? OPP
2. Whether the plaintiff is entitled to suit for declaration as prayed for? OPP
3. Whether the plaintiff is entitled to suit for mandatory injunction as prayed for? OPP
4. Whether the suit is not maintainable in the present form? OPD
5. Whether the plaintiff has no locus standi to file the present suit? OPD
6. Whether the plaintiff has no cause of action to file the present suit? OPD
7. Whether the present suit is time barred? OPD
8. Relief.

2.5 The trial Court partly decreed the suit; held that the plaintiff is entitled to the possession of the suit property as per the terms & conditions of the lease order dated 10.05.2011 for a period of one year; and the possession of the plaintiff would start from the date he is put in possession.

2.6 Three separate appeals were filed before the First Appellate Court, which were dismissed by the First Appellate Court by passing the impugned judgment and decree dated 03.10.2019.

2.7. By filing the present appeals, the plaintiff-appellant has challenged the aforesaid judgment and decree dated 03.10.2019.



3. Learned counsel for the appellant(s) contends that the appellant-plaintiff is either entitled to possession of the suit property, or he is entitled to recovery of the amount, which he has paid to the Wakf Board, but First Appellate Court has dismissed his appeal.

4. I have considered the aforesaid submissions and perused the paper-book(s).

5. The trial Court has taken into consideration the admission made on behalf of the Wakf Board. It has been noticed in para No.11 of the trial Court judgment that defendant Nos.1 & 2 have admitted that the property has been leased out to the plaintiff. The admission of the witness of defendant (DW-1) has also been considered, whereby he has stated that private respondents (Nos.3 to 7) are in unauthorized and illegal possession of the Wakf land. The witness has also admitted that the suit property has been allotted to the plaintiff by the Wakf Board vide lease order dated 10.05.2011 and he has deposited all the fees and expenses. He has also admitted that the plaintiff did not get possession of the suit land despite depositing the said fee. No notice of cancellation of lease deed was served upon the plaintiff. As per the admission of this witness, the plaintiff was neither given possession, nor was the amount refunded to him.

6. A plea was also taken in the written statement by the Wakf Board and an argument was also raised that the plaintiff had given an undertaking that he would take the possession of the suit land himself (as per Ex.D-2), as such, the Wakf Board has no accountability. The said plea has rightly not been accepted by the trial Court by observing that as per the *Qabuliat Nama*, the Wakf Board had given the property

to the plaintiff, it had to ensure that the possession should be handed



over to the plaintiff. The Wakf Board cannot be exonerated on the premise that the plaintiff was himself bound to take the possession. The observation by the trial Court that the Wakf Board was duty-bound to deliver the possession to the plaintiff requires no interference and the same has been rightly upheld by the First Appellate Court.

7. As per issue No.2, the declaration sought by the plaintiff regarding return of the whole amount deposited by the plaintiff has been declined by the trial Court as well as by the First Appellate Court, since the plaintiff has not availed the remedy of seeking recovery of that amount and merely seeking declaration cannot be allowed in terms of Section 34 of the Specific Relief Act, 1963, which reads as under:-

“34. Discretion of court as to declaration of status or right. – Any person entitled to any legal character, or to any right as to any property, may institute a suit against any person denying, or interested to deny, his title to such character or right, and the court may in its discretion make therein a declaration that he is so entitled, and the plaintiff need not in such suit ask for any further relief:

Provided that no court shall make any such declaration where the plaintiff, being able to seek further relief than a mere declaration of title, omits to do so.

Explanation. – A trustee of property is a “person interested to deny” a title adverse to the title of some one who is not in existence, and whom, if in existence, he would be a trustee.”

8. The plaintiff has sought mandatory injunction directing the defendants to pay the compensation amount. Such relief has been rightly declined by both the Courts below, since plaintiff is not entitled to *mesne* profit.

9. The appellant has not been able to prove that his suit seeking the relief of mandatory injunction and the relief of declaration



is maintainable, as such, said reliefs have been rightly declined by both the Courts.

10. Consequently, both the appeals are devoid of any merits and are accordingly dismissed.

11. Pending miscellaneous application(s), if any, shall stand disposed of.

07.04.2026
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[HARPREET KAUR JEEWAN]
JUDGE

Whether speaking / reasoned :

Yes

No

Whether Reportable :

Yes

No