

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****238****RSA-226-2017 (O&M)****Date of decision: 28.01.2026****Punjab Wakf Board****...Appellant(s)****Vs.****Satish Kumar and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Ghulam Nabi Malik, Advocate for the appellant.

Mr. Anil Kumar, Advocate and
Mr. Raj Kumar Gupta, Advocate
for respondent No.1.

NIDHI GUPTA, J.

Plaintiff is in Second Appeal against the concurrent judgments and decrees of the learned District Courts; whereby suit filed by the appellant for possession of the house situated in Satnam Nagar, Near New Grain Market Road, Jalandhar, comprised over area measuring 177.77 square yard existed over khasra no.944, khewat no.195, Khatauni no.217 to 220 (hereinafter referred to as "suit property"), as entered in the jamabandi of the year 2004-05, shown red in colour in site plan attached and bounded as: East: Wakf Property under the illegal possession of Tejinder Soap Factory; West: Street North: Wakf Property under the illegal possession of Kulwant Kaur; South: Wakf property under the illegal possession of Gurcharan Singh; **and** for recovery of mesne profit and for grant of permanent injunction, has been dismissed by both the Courts below.



2. It was the pleaded case of the appellant that suit property is owned by Punjab Wakf Board. It was averred that the suit property is comprising in khasra No. 944 and is a Mohammadan Graveyard and was used as such before and after partition of country. Most of the Muslims of the area migrated to Pakistan and defendants and other occupants had illegally occupied the Wakf property at different times. It was alleged that in 1995, defendant No. 2 had applied for getting the property in dispute on lease but later in connivance with defendants No.1 and 3 had taken illegal possession of the Wakf property. Thus, defendant No.2 is in illegal occupation and defendants No.1 and 3 are also claiming their rights in the wakf property. As such, plaintiff is entitled to mesne profit from the defendants. It was further pleaded that defendants are threatening to transfer the possession of the suit property despite the fact that plaintiff had requested defendants to handover the vacant possession of suit property and to pay mesne profits, but defendants had refused to do so. With these pleadings, present suit was filed on 09.12.2010.

3. Upon appraisal of the pleadings and the evidence led by the parties, the learned Civil Judge (Junior Division), Jalandhar had dismissed the suit of the plaintiff vide judgment and decree dated 28.08.2015. The Civil Appeal filed by the plaintiff was dismissed by the learned Additional District Judge, Jalandhar vide judgment and decree dated 16.08.2016. Hence, the present second appeal by the plaintiff.

4. It is, *inter alia*, submitted by learned counsel for the appellant-Board that at the time of filing of the suit on 09.12.2010 as per



the prevalent legal position, in respect of the issue regarding the 'title' of Wakf property, the jurisdiction lay with the learned Wakf Tribunal. However, in respect of 'possession' of the suit house, the civil suit is maintainable. Accordingly, the appellant had preferred the instant civil suit seeking possession of the suit house. It is contended that vide impugned judgments and decrees both the learned District Courts have given findings regarding title of the suit house; which could not have been done by the Civil Courts as the jurisdiction lay with the Wakf Tribunal. It is submitted that as per the present disposition of law qua Wakf property, whether in respect of title or possession, the same are to be settled by the Wakf Tribunal. It is accordingly prayed that the present appeal be allowed and matter be referred to the Wakf Tribunal.

5. *Per contra*, learned counsel for the respondent-defendant No.1 vehemently opposes and contends that the submissions made on behalf of the appellant, are misleading as the question involved in the present matter is not regarding title of the suit property but is regarding the identification of the suit property. It is submitted that there is no dispute with regard to the fact that the appellant is owner of khasra No. 944. However, the suit house as described in the plaint, is not situated in khasra No. 944, rather it falls in khasra No. 952. It is submitted that the findings given by both the District Courts is also to the effect that the suit house falls in khasra No. 952. Therefore, there is no finding in regard to the title as such; and, therefore, it cannot be said that the jurisdiction of



the Civil Court is barred. Learned counsel further takes this Court through the relevant findings of District Courts to make good his above arguments.

6. At this stage, learned counsel for the appellant submits that both the District Courts have duly recorded that only 3 sides of the suit property are matching with the Sale Deeds in favour of respondent No.1/defendant No.1. Therefore, the Courts have wrongly relied upon the Sale Deed in holding that defendant No.1 is owner of the suit property.

7. Learned counsel for the appellant further submits that the Ld. Trial Court in an illegal and arbitrary manner discarded the overwhelming evidence produced by the appellant to prove its case. It is pointed out that the site plan of the suit property was duly proved on record and even the defendant No.1 has not denied the fact that the appellant is owner of the property bearing Khasra No.944 but his ground was that the suit property does not fall under Khasra No.944. It is contented that this ground was falsified by the appellant by proving on record the site plan and the revenue record. However, the Ld. District Courts ignored the said fact while passing the impugned judgment and decree.

8. It is further submitted by learned counsel for the appellant that the Ld. Trial Court had taken into consideration the ground raised by defendant No.1 that he has purchased the suit property through three sale deeds Ex.DW1/2 to DW1/3. However, the said sale deeds do not relate to the suit property whereas, same are relating to the other



property bearing different khasra numbers, hence, reliance upon the said sale deeds by the Ld. Trial Court is totally illegal and arbitrary.

9. It is accordingly prayed that the present Appeal be allowed; and the impugned judgments and decrees of the Courts below be set aside.

10. No other argument is raised on behalf of the parties. I have heard learned counsel and perused the case file in great detail. I find no merit in the submissions advanced on behalf of the appellant.

11. It is the case of the plaintiff that the suit property falls in khasra No. 944 and that the appellant-Wakf Board is owner of the same. However, plaintiff has abjectly failed to make good his above assertion. Plaintiff produced no documentary evidence to show that suit property falls in khasra No. 944. In this regard, Plaintiff could derive no benefit from the deposition of PW3. Although PW3 has tried to support the case of the plaintiff by stating in his examination-in-chief that suit property falls in khasra No. 944 and that defendant No.2 is in possession thereof. However, from his cross-examination, it was clear that he had no knowledge about the suit property and was only deposing at the behest of the plaintiff. Learned District Courts accordingly concluded that PW3 is a procured witness who has no knowledge in respect of the suit property or that of the property of defendant No.1.

12. Further, PW1 Shakeel Ahmed appearing on behalf of the plaintiff did not come present for his cross-examination. As such, his



evidence in examination-in-chief was rejected. Thus, plaintiff was unable to prove his pleaded case.

13. Plaintiff was even unable to substantiate his assertion that defendant No.2 had applied for getting lease of the suit property in 1995. Rather, PW2 Rashid Mohammad has admitted in his cross-examination that defendant No.2 never moved any such application to the plaintiff in 1995 for getting suit property on lease.

14. On the other hand, defendant No.1 had produced sufficient oral and documentary evidence to prove on record that the suit property situate in khasra No. 952 was bought by him vide Sale Deeds dated 26.06.1990 Ex.DW1/2; 31.10.1990 Ex.DW1/3; and Sale Deed dated 01.06.1993 Ex.DW1/4. Learned District Courts have categorically noted that the Sale Deeds clearly and unambiguously mention the boundaries of the property bought by defendant No.1 which match with the boundaries of the present suit property. Further, ownership of defendant No.1 over the suit property is also proved from the fact that previously, defendant No.1 had inducted defendant No.3 as a tenant in some part of the suit property; whereafter defendant No.1 had filed Eviction Petition against defendant No.3; in which defendant No.3 had admitted landlord-tenant relationship between defendant No.1 and defendant No.3. The Eviction Petition filed by defendant No.1 shows that boundaries of the property involved in both the disputes are the same. It was therefore, correctly inferred that plaintiff had filed suit with regard to the property in respect of which Eviction Order dated 26.09.2008 Ex.DW1/9 had already been



passed in favour of defendant No.1, which has been upheld upto the Hon'ble Supreme Court vide order dated 01.07.2009 Mark DA.

15. From the above facts, it is clear that the plaintiff was unable to prove that the suit property fell in khasra No. 944. Rather, defendant No.1 succeeded in proving that suit property as described in the head note of the plaint was situated in khasra No. 952. For this reason as well, it cannot be stated that the dispute in the present case was regarding the title of the suit property. Rather, Id. Counsel for the defendant no.1 has rightly stated that dispute was with regard to the identification of the suit property.

16. The relevant findings of the learned First Appellate Court as recorded in para 18 of the judgment dated 16.08.2016 are as follows:-

"18. After considering the facts and circumstances of the case and after hearing counsels for the parties and perusal of record I find that the learned lower Court rightly appreciated the evidence on record and rightly dismissed the suit of the plaintiff/appellant. A perusal of the record reveals that PW-1 Shakeel Ahmad has not come present for his cross examination, so his evidence being incomplete cannot be taken into consideration. The remaining PWs tried to depose in terms of the contents of plaint and even the cross examination of PW2 and PW3 conducted by counsel for respondent nos.2 & 3 was supportive to the case of plaintiff, which clearly shows that respondent nos. 2 and 3 are infact not the contesting parties and are not in dispute with plaintiff/appellant rather they are supporting the case of plaintiff/appellant, which shows that they are hand in glove with plaintiff/appellant.



The plaintiff witnesses failed to prove that the suit property falls in khasra no. 944 as there are many contradictions in their cross-examination and even no any document has been produced by plaintiff to prove that the suit property infact falls in khasra no.944. Even PW3 Manmohan has categorically admitted in his cross examination that he does not know khasra number of his own house where he resides. He even stated that he cannot tell whether the suit property is in possession of respondent Satish Kumar or some other person. So his cross examination clearly shows that he does not know anything about the suit property. However, perusal of testimony of DW1 Satish Kumar as well as documentary evidence relied upon by him i.e. sale deeds Dt. 26.06.1990, 31.10.1990 and 01.06.1993 Ex.DW.1/2 to Ex.DW.1/4 vide which he purchased the suit property clearly shows that the boundaries of the property have been clearly mentioned in the said sale deeds and three sides of the property mentioned in the said sale deeds clearly matches with the boundaries of suit property on eastern, western and southern sides and on fourth side of the property mentioned in sale deeds, the property of others is shown, which also includes the property of Punjab Wakt Board, which clearly shows that suit property falls in Khasra Nos. 952,26229/953 and 956 and same is owned by respondent no. 1.

Furthermore the respondent no.1 had earlier inducted respondent no.3 as tenant in some portion of the suit property and thereafter he filed an eviction petition against respondent no.3 for evicting him from suit property and in the said eviction petition respondent no.3 had admitted the relationship of landlord and tenant between the parties and thus learned Rent Controller assessed the provisional rent



which the respondent no.3 failed to pay and thereafter eviction order dt. 26.09.2008 Ex.DW.1/9 was passed against respondent no.3, which is up held upto Hon'ble High Court vide order dt.01.07.2009 and thereafter execution was filed by respondent no.1 against respondent no.3 in which objections were raised by respondent no.2, which were dismissed and appeal against the said order was also dismissed and ultimately the possession of suit property was delivered to respondent no.1 vide order dt. 11.02.2015 Ex.DW.1/13.

Even the perusal of the said eviction petition clearly shows that boundaries of the property involved in the said eviction petition and boundaries of the present suit property are same, which means both the properties are same and suit has been filed by plaintiff/appellant with regard to property with respect of which eviction order has already been passed in the favour of respondent no.1 and the same has also been up to Hon'ble High Court and possession of suit property has also been delivered to respondent no. 1. Therefore, respondent no.1 has successfully proved that suit property does not fall in khasra No.944 rather it falls in khasra Nos. 952,26229/952 and 956 and same is owned by respondent no. 1.

Therefore, it is duly established that suit property is owned by respondent no.1 having purchased vide three sale deeds and it falls in khasra Nos. 952,26229/952 and 956 and it does not fall in khasra no.944. If suit property does not fall in khasra no. 944 and it is neither owned nor possessed by plaintiff, then how can plaintiff deliver its possession to respondent no.2. Furthermore in this case no demarcation could be done due to constructions being raised over the area where suit property falls and there is no any evidence on



record which could prove that suit property falls in khasra no.944 which is owned by plaintiff. Therefore, the plaintiff is not proved to be the owner of suit property rather the suit property is proved to be in ownership of respondent no. 1.

From the above detailed discussions, I have not find any illegality and infirmity in the impugned Judgment passed by the learned lower Court. The lower Court has rightly appreciated the evidence on record and dismissed the suit of the plaintiff/appellant. Accordingly, I find no grounds whatsoever in the present appeal to allow the same and the present appeal is hereby dismissed. Findings of the learned lower Court on all the issues are upheld. Lower Court's record is ordered to be sent back alongwith copy of this Judgment. File of the appeal is ordered to be consigned to the record room.”

17. It was in view of the above findings, learned District Courts concluded that plaintiff was not having any concern with the suit property and, therefore, has no locus standi to file the suit and, therefore, the suit was not maintainable.

18. Learned counsel for the appellant is unable to controvert or dispute the above said facts and findings.

19. In view of the above, no ground is made out to interfere in the concurrent judgments and decrees of the learned Courts below. The present Regular Second Appeal is hereby **dismissed**.

20. Pending applications, if any, stand disposed of.

28.01.2026

Divyanshi

(NIDHI GUPTA)
JUDGE

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