(2013) 07 P&H CK 0445

High Court Of Punjab And Haryana At Chandigarh

Case No: C.R. No. 2855 of 2005

Jarnail Sigh	APPELLANT
Vs	
Punjab Wakf Board	RESPONDENT

Date of Decision: July 10, 2013

Acts Referred:
Constitution of India, 1950 â€" Article 227#Evidence Act, 1872 â€" Section 116

Citation: (2013) 07 P&H CK 0445

Hon'ble Judges: L.N. Mittal, J

Bench: Single Bench

Advocate: G.S. Nagra, for the Appellant; Jai Bhagwan, for the Respondent

Final Decision: Dismissed

Judgement

L.N. Mittal, J.
Defendant Jarnail Singh has filed this revision petition under Article 227 of the Constitution of India assailing judgment and

decree dated 16.02.2005 (Annexure P-5) passed by learned Additional District Judge, Amritsar as Wakf Tribunal, thereby decreeing the suit filed

by respondent-plaintiff-Punjab Wakf Board (in short-the Board), for possession of the suit land measuring 40 kanals. Case of the plaintiff-

respondent is that it is owner of the suit land and it was leased out to defendant-petitioner for one year ending on 30.06.1992. The lease was not

renewed, and therefore, possession of the defendant was unauthorized over the suit land.

2. The defendant contested the suit and denied the ownership of the plaintiff over the suit land. It was alleged that by misrepresentation, the plaintiff

made the defendant to pay lease money of the suit land to the plaintiff since the year 1977 till the year 1992 erroneously. The defendant was

already in possession of the suit land since consolidation of holdings. Various preliminary objections were also raised.

3. Learned Wakf Tribunal has decreed the suit of the plaintiff Board. Feeling aggrieved, defendant has filed this revision petition.

4. I have heard counsel for the parties and perused the case file including file of Wakf Tribunal, with their assistance.

5. Counsel for the petitioner contended that the suit land has been described to be Shamlat Deh in jamabandi (Ex. P-3), and therefore,

respondent-Board is not owner of the suit land. The contention cannot be accepted. Vide Gazette notification (Ex. P-4) issued u/s 5(2) of the

Wakf Act, 1954, the suit land has been notified as Wakf property. On the other hand, entry in jamabandi is rebuttable. Moreover, the petitioner-

defendant has admitted that he had been paying lease money to the plaintiff-Board. Consequently, in view of Section 116 of the Evidence Act, the

defendant is estopped from denying the ownership of the plaintiff-Board over the suit land.

6. In addition to the aforesaid, the defendant in his cross-examination, has admitted his signatures on various documents including kabuliyatnama

i.e. lease deed executed by defendant in favour of the plaintiff, application moved by defendant to plaintiff for giving concession in lease money,

letters written by defendant to plaintiff for deposit of lease money and also letter expressing his readiness and willingness to deposit the lease

money and also letter intimating the deposit of lease money by defendant with plaintiff. In view of these documents also, it is manifest that the

defendant himself has been admitting the plaintiff to be owner of the suit land. These documents also pertain to the year 1998 and the year 2000.

Consequently, the stand of the defendant that he paid lease money to the plaintiff up to the year 1992 only is also untenable.

7. It is thus manifest that finding of the Tribunal that plaintiff-Board is owner of the suit land is unexceptionable on the basis of evidence on record.

Since the defendant repudiated the lease and even denied the ownership of the plaintiff over the suit land, possession of the defendant became

unauthorized, and therefore, suit of the plaintiff has been rightly decreed for possession of the suit land.

8. Learned counsel for the defendant-petitioner, relying on judgment of Hon''ble Supreme Court in the case of Ramesh Gobindram (dead) through

Lrs. Vs. Sugra Humayun Mirza Wakf, contended that Wakf Tribunal had no jurisdiction to adjudicate suit for possession filed against

tenant/lessee. The contention is again misconceived and untenable. As noticed herein before, the defendant repudiated the lease and even denied

ownership of the plaintiff-Board over the suit land. Consequently, only Wakf Tribunal constituted under the Wakf Act, 1995 had jurisdiction to

determine whether plaintiff Wakf Board is owner of the suit land or not. Judgment in the case of Ramesh Gobindram (supra) is, therefore, not

attracted for the benefit of the petitioner-defendant. On the contrary, only Wakf Tribunal had jurisdiction to entertain and decide the suit.

Resultantly, I find no merit in this revision petition. Impugned judgment of the Wakf Tribunal does not suffer from any perversity, illegality or

jurisdictional error nor it is based on misreading or misappreciation of the evidence on record so as to call for interference by this Court in exercise

of power of superintendence under Article 227 of the Constitution of India. The revision petition is accordingly dismissed.