

(1983) 02 P&H CK 0007

High Court Of Punjab And Haryana At Chandigarh

Case No: Regular Second Appeal No. 1252 of 1974

Karnail Singh

APPELLANT

Vs

Pala Singh and another

RESPONDENT

Date of Decision: Feb. 22, 1983

Hon'ble Judges: J.V. Gupta, J

Bench: Single Bench

Advocate: T.S. Grewal, for the Appellant; H.L. Sarin with Mr. R.L. Sarin for the Respondent No. 1 and Mr. Subhash Goyal, for the Respondents No. 2, for the Respondent

Final Decision: Dismissed

Judgement

J.V. Gupta, J.

This is plaintiff's second appeal whose suit for the grant of a permanent injunction restraining defendant-respondent No. 1 from interfering with his possession of the suit land has been dismissed by both the Courts below.

2. The plaintiff filed the suit on the allegations that the suit property was the property of Khankah Rajpir Sahib and, thus, a public waqf property of the Muslims. It vested in defendant-respondent No. 2, i.e., the Punjab Wakf Board. It being its manager and mutwalli let it out to the plaintiff on February 2, 1971, for a period of one year and the possession thereof was also given to him. Defendant-respondent No. 1, who had no right, title or interest in the suit land was threatening to take forcible possession thereof; hence the present suit. The suit was contested and it was denied that the plaintiff was ever in possession of the suit property. The trial Court dismissed the plaintiff's suit as it was held by it that the plaintiff was never in possession of the suit land, as alleged. In appeal, the learned Additional District Judge affirmed this finding of the trial Court and, thus, maintained the decree passed by it dismissing the plaintiff's suit. Dissatisfied with the same, he has come up in second appeal to this Court.

3. After hearing the learned counsel for the parties, I do not find any merit in this appeal.
4. It has been concurrently held by both the Courts below that the plaintiff was never in possession of the suit land, as alleged, it being a finding of fact based on the appreciation of the evidence on the record, could not be interfered with in second appeal.
5. Consequently, this appeal fails and is dismissed with costs.