(2013) 08 P&H CK 0797

High Court Of Punjab And Haryana At Chandigarh

Case No: LPA No. 1345 of 2013 (O and M)

Surinder Kumar	APPELLANT
Vs	
Punjab Wakf Board	RESPONDENT

Date of Decision: Aug. 2, 2013

Hon'ble Judges: Jasbir Singh, J; G.S. Sandhawalia, J

Bench: Division Bench

Advocate: Dilraj Singh Brar, for the Appellant;

Final Decision: Dismissed

Judgement

Jasbir Singh, J.

This appeal has been filed against an order dated 19.7.2013, passed by the learned Single Judge, dismissing CWP No. 19275 of 2011 filed by the appellant. In that writ petition, the appellant had laid challenge to an order passed by the Tribunal, constituted under the Wakf Act, 1995, ordering ejectment of the appellant from the piece of land measuring 300 square yards. Vide that judgment it was found, as a matter of fact, there is nothing contrary on record, that property in dispute was a Wakf property. It was given on licence to the appellant in the year 1987. Thereafter, licence period was not extended. The appellant did not pay any rent to the Wakf Board to retain possession of the said property. Taking note of above said facts, the Tribunal ordered ejectment of the appellant from the land in dispute. Appellant filed above said writ petition on technical ground stating that for ejectment of unauthorized occupant like the appellant, the Tribunal has no jurisdiction. Above said point was noticed by the learned Single Judge and negatived by observing as under:-

There is no quarrel with the law laid down by the Supreme Court in Ramesh Gobindram''s case (supra) that wherever the Wakf Board is seeking eviction of a tenant sitting over its property, the jurisdiction to entertain the eviction petition or suit is only of the Civil Court and not the Tribunal constituted under the Wakf Act, 1995. However, the law laid down in the aforesaid judgment is not applicable to the facts and circumstances of this case because the petitioner has miserably failed to prove by leading any evidence that he has

ever been inducted as a tenant in the property of the Wakf Board, rather his consistent stand before the Tribunal as well as in the present writ petition is of an unauthorized occupant because he has been claiming ownership on the basis of adverse possession. It is well settled law that a tenant is always a tenant until and unless evicted in accordance with law and also a tenant cannot claim ownership rights by way of adverse possession because the plea of adverse possession can be taken by a person who is in unauthorized possession and not in permissive possession.

2. It is also on record that after taking land on licence from the respondent Wakf Board, the appellant made an attempt to claim ownership on the basis of adverse possession, which he failed to prove.

3. Order passed by the learned Single Judge is perfectly justified.

4. No ground is made to interfere. The appeal stands dismissed.