
(2004) 08 P&H CK 0039

In the Punjab And Haryana At Chandigarh

Case No : Regular Second Appeal No. 1065 of 1981

Punjab Wakf Board

APPELLANT

Vs

Dilbagh Singh (Dead) through Lrs

RESPONDENT

Date of Decision : 04-08-2004

Acts Referred:

Administration of Evacuee Property Act, 1950 — Section 11, 27
Waqf Act, 1954 — Section 69(2)

Citation : (2005) 139 PLR 337 : (2004) 4 RCR(Civil) 667

Hon'ble Judges : Hemant Gupta, J

Bench : Single Bench

Advocate : G.S. Bhatia, for the Appellant; Jagdish Manchanda, for the Respondent

Final Decision : Dismissed

Judgement

Hemant Gupta, J.—The plaintiff is in second appeal aggrieved against the judgment and decree passed by the Courts below arising out of suit for permanent injunction for restraining the defendants from forcible dispossession.

2. The plaintiff filed the present suit alleging therein that the plaintiff is in possession and cultivation of land measuring 68 kanals 12 marlas. The land is of kangah which vests in and is under the superintendence and management of plaintiff No. 1 who leased out land in suit to Atma Ram who is in actual cultivating possession of the land. The defendants have alleged that the land in dispute has been allotted to them by Rehabilitation Authorities which allotment was said to be illegal, invalid, unauthorised and not binding upon the plaintiff. One of the issues framed was "whether the Civil Court has jurisdiction to entertain the suit?

3. Both the Courts have returned a finding that the land was allotted vide Ex.DI. Still further, the plaintiff challenged the order of allotment in the revision petition u/s 27 of the Administration of Evacuee Property Act, 1950 before the Assistant Custodian General exercising power of the Custodian General Punjab. The said

revision petition was dismissed on 27.3.1979, Ex.D4. The Courts have held that the land allotted to defendant No.1 is evacuee property allotted by the Rehabilitation Department to defendant No.1 and, thus, the Civil Court jurisdiction is barred.

4. Learned counsel has relied upon the judgment reported as *Bachan Chand v. Punjab Wakf Board*, 1984 P.L.J. 142 to contend that the Wakf Board is competent (to) file civil suit.

5. The argument raised by the learned counsel for the appellant is misconceived. In the Full Bench judgment, it has been held that Section 69(2) of the Wakf Act does not repeal Section 11 of the Administration of Evacuee Property Act, 1950 as only the State Acts are repealed by the aforesaid provisions of law and not the Central Act.

6. Since the property stands vested under the Administrator of Evacuee Property Act, 1950 with the Custodian, the appellant is not entitled to dispute such vesting before the Civil Court. In view of the findings recorded by the Courts below, no substantial question of law arises in the present second appeal.

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