

(2025) 09 P&H CK 0813
In the Punjab And Haryana At Chandigarh
Case No : CR Of 1773 Of 2017

Punjab Waqf Board

APPELLANT

Vs

Sarwan Ram

RESPONDENT

Date of Decision : 11-09-2025

Acts Referred:

Citation : (2025) 09 P&H CK 0813

Hon'ble Judges : Harkesh Manuja, J

Bench : Single Bench

Advocate : G.N. Malik

Final Decision : Disposed Of

Judgement

Harkesh Manuja, J

1. By way of present revision petition challenge has been laid to the orders dated 05.07.2014 (P-2) and 01.10.2016 (P-4) passed by the learned Executing Court and the Court of learned Additional District Judge, Hoshiarpur, respectively, whereby the execution filed by the petitioner-decree holder has been disposed of being satisfied.

2. Despite notice, no one has chosen to appear on behalf of the respondent and as such he was proceeded against ex-parte vide order dated 03.05.2018.

3. I have heard learned counsel for the petitioner and gone through the paper-book.

4. In the present case, the dispute arose in the executing proceedings arising out of judgment and decree dated 21.12.2005 passed by the learned Additional Civil Judge (Senior Division), Garhshankar, District Hoshiarpur, in Civil Suit No.24 of 29.01.20033, titled as Punjab Wakf Board, Ambala Cantt. Vs. Swaran Ram. The operative part of the decree is extracted hereunder:-

"It is ordered the suit of plaintiff is decreed with costs for recovery of possession

of the site shown red in colour in the site plan,, comprised of an area of 755 sq. yards in Khewat andd Khatauni No. 162/210, 211 Khasra No. 98 min bounded as follows East-Street. West-Wakf property, Noorth-Gurdwara Sahib, South-Street, as owner, situatedd in Village Dihana as entered in fard jamabandi 1994-95 by removal of superstructure i.e. temporary chann/ chapper etc.”

5. Based upon the aforementioned judgment and decree, the petitioner/ plaintiff sought its execution. The Court below while replying upon the demarcation report submitted by the Bailiff carried out with the assistance of concerned Patwari went on to record that the respondent was not in possession of any area forming part of Khasra No.98 and thus no further orders were required to be passed as the decree stood satisfied.

6. The aforesaid observations in the facts and circumstances of the present case are against records. Once a positive finding was recorded by the learned trial Court in para No.11 of its judgment based on the admission made by defendant Swaran Ram admitting his illegal possession over the suit property, the learned Executing Court could not have gone beyond such findings in the absence of those having been upset in any statutory appeal and that too, merely on the basis of some demarcation report furnished by the Bailiff with the assistance of concerned Patwari in the execution proceedings.

7. Even no observation at all has been made by the Courts below to the effect that how much is the total area of Khasra No.98; whether besides Dargah, there is any other portion of this Khasra Number in the occupation of any other individual.

8. In such facts, the revision petition is allowed. Orders dated 05.07.2014 (P-2) as well as order dated 01.10.2016 (P-4) passed by the Courts below are set aside and the matter is remanded back to the learned Executing Court for its fresh determination while taking into consideration the specific findings recorded by the learned Trial Court in its judgment dated 05.07.2014. The petitioner/ plaintiff is directed to appear before the learned Executing Court on 26.09.2025.

9. Considering the fact that the judgment and decree was passed in the year 2003, the Executing Court is requested to expedite the proceedings and conclude the same at the earliest.

10. Pending misc. application(ss), if any, shall also stand disposed of.