

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 7128 OF 2000

PUNJAB WAKF BOARD

Appellant (s)

VERSUS

FINANCIAL COMMISSIOENR & SECY. & ORS.

Respondent(s)

(With appln(s) for exemption from filing O.T.,permission to file additional documents and office report))

Date: 29/03/2007 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.B. SINHA

HON'BLE MR. JUSTICE MARKANDEY KATJU

For Appellant(s)

Mr. Irshad Ahmad,Adv.

For Respondent(s)

Mr. Manjit Singh, Adv.

Mr. Harikesh Singh, Adv.

Mr.T.V. George,Adv.

Mr. Mahabir Singh, Sr. Adv.

Mr.Ajay Pal, Adv.

Mr. Gagandeep Sharma, Adv.

Mr. Nikhil Jain, Adv.

Mr. S. Srinivasan ,Adv

UPON hearing counsel the Court made the following

O R D E R

The appeal is dismissed in terms of the signed order. No costs.

(Meenu Sethi)

(Pushap Lata Bhardwaj)

Court Master

Court Master

Signed order is placed on the file

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 7128/2000

Punjab Wakf Board

...Appellant

Versus

Financial Commissioner & ...Respondents

Secy. & Ors.

ORDER

The short question which arises for consideration in this appeal is as to whether the property in question, which is said to be a shop premises comprising 153 sq. ft. in plot No. 298, is a wakf property or an evacuee property.

The shop in question was found to be in possession of the private respondents herein since 1955. The Administrator appointed under the Administration of

Evacuee Property Act had been realising the rent from the respondents in respect thereof.

Punjab Wakf Board claimed the said shop to be a wakf property. Its claim had been negated. The property was auctioned. The auction sale has been confirmed. All authorities including the Financial Commissioner has arrived at a finding that the shop in question was an evacuee property and it had never been a part of the 'wakf' nor used for any purpose of the 'wakf'.

Mr. Irshad Ahmad, learned counsel appearing for the appellant, however, would submit that one of the shop premises comprising of plot No.297 was similarly situated and the auction sale had been set aside by the Chief Settlement Commissioner. It appears from a perusal of the order of the Chief Settlement Commissioner dated 29.5.1991, whereupon Mr. Ahmad, learned counsel places strong reliance, that the auction sale was set aside not on the ground that the same was a part of the wakf property but on the ground that the same obstructed the passage to the mosque. The relevant portion of the said order reads as under:

" I have given a careful thought to the submissions of the parties and have gone through the record. I have also visited the spot on 17.11.1990 in the presence of the parties.

The property in dispute is really the stairs of the Mosque though these are not being used for entrance at present. If this auction of the property in favour of the respondent Shri Arjan Singh is kept intact there will be no entrance to the mosque and it will create a problem later on. Moreover the property in question is a very small piece of land and it makes no difference whether it belongs to Rehabilitation Department or to somebody else, the entrance to the mosque should not be blocked.."

The High Court, in view of the finding of fact arrived at by the Revenue Authorities had refused to interfere therewith in the writ petition filed by the appellant herein.

Having regard to the fact that all the Revenue Authorities have arrived at a finding of fact that the property in question was an evacuee property and was not a wakf property, we find no reason to differ with the opinion of the High Court. This appeal, therefore, being devoid of any merit is dismissed. No costs.

.....J.
[S.B. SINHA]

...J.

[MARKANDEY]

KATJU]
New Delhi,
March 29, 2007