



**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

106

**CR-1963-2018 (O&M)  
Decided on:20.02.2025**

Nar Singh and others

. . . Petitioners

Versus

Haryana Wakf Board and others

. . . Respondents

**CORAM: HON'BLE MR. JUSTICE VIKAS BAHL****PRESENT:** Mr. Ravi Dutt Sharma, Advocate  
for the petitioners.Mr. Ghulam Nabi Malik, Advocate  
for respondent Nos.1 and 2.Ms. Garima Sharma, Advocate  
for respondent Nos.3 and 4.

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**VIKAS BAHL, J.(ORAL)****CM-1119-CII-2025**

This is an application under Order IX Rule IX CPC read with Section 151 CPC for restoration of the main revision petition to its original number which had been dismissed for non-prosecution vide order dated 14.01.2025.

For the reasons mentioned in the application, which is duly supported by an affidavit, same is allowed. The order dated 14.01.2025 is hereby recalled and the main case is restored to its original number and is taken up on Board today itself.

**Main Case**

1. The present Civil Revision Petition has been filed under Article 227 of the Constitution of India read with Section 115 CPC for setting aside the order dated 08.02.2018 (Annexure P-9) passed by the Additional District Judge, Kaithal whereby the appeal has been ordered to be sent to the Wakf Tribunal.



2. On 17.02.2025, this Court has been pleased to pass the following order:-

*“Present: Mr. Ravi Dutt Sharma, Advocate  
for the applicant-petitioners.  
Mr. Ghulam Nabi Malik, Advocate  
for respondent Nos.1 and 2 in CR-1963-2018  
and for respondent Nos.3 and 4 in CR-1958-2018.  
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*Learned counsel for the applicant-petitioners has submitted that the petitioners had filed a suit for possession and recovery of mesne profits, which was decreed vide judgment and decree dated 05.08.2016. It is submitted that against the said order, two appeals were filed and in the said appeals, vide order dated 08.02.2018, the first Appellate Court had ordered that the appeals be sent to the Tribunal situated at Ambala for 27.02.2018. It is submitted that at any rate, a Tribunal cannot decide the case/appeal challenging the judgment and decree of the trial Court dated 05.08.2016 and it is only the first Appellate Court which can decide the said appeal. It is submitted that on the said point alone, the judgment of the first Appellate Court deserves to be set aside.*

*Learned counsel for respondent Nos.1 and 2 has submitted that the civil Court has no jurisdiction to try the main suit but could not dispute the factum that the judgment of the civil Court could have only been set aside by the first Appellate Court.*

*Keeping in view the abovesaid facts and circumstances, this Court is prima facie of the view that the judgment of the first Appellate Court deserves to be set aside on the said ground alone and the matter deserves to be considered afresh by the first Appellate Court.*

*Adjourned to 20.02.2025.*

*Registry is directed to attach the file of the connected revision petition bearing CR-1958-2018 and also inform all the counsel for the parties in the present case as well as in the connected case about the said date.*



*To be taken up in the urgent list.*

*A photocopy of this order be placed on the file of other connected case.”*

3. During the course of the arguments, it could not be disputed that the suit filed by the present petitioner was entertained by the Civil Court and was also decreed and the proper forum of challenge to the said judgment of the Civil Judge (Sr. Divn.), Kaithal is the first Appellate Court i.e. the Additional District Judge, Kaithal and the said appeal was to be decided by the Additional District Judge, Kaithal and it could not have been sent to the Tribunal situated at Ambala and all the issues as regards the maintainability or otherwise of the suit were also required to be considered by the first Appellate Court. The first Appellate Court has thus committed grave error in referring the appeal to the concerned Tribunal situated at Ambala.

4. Keeping in view the abovesaid facts and circumstances and the fair stand taken by learned counsel for the petitioners as well as counsel for the respondents, present petition is partly allowed and the judgment dated 08.02.2018 is set aside and the matter is remanded to the first Appellate Court for afresh decision of the appeal filed by the defendants, in accordance with law.

5. It is made clear that this Court has not opined on the merits of the case and also on the fact as to whether the suit filed by the petitioner was maintainable or not and all the aspects would be considered by the first Appellate Court after hearing both the parties, in accordance with law.

**(VIKAS BAHL)**  
**JUDGE**

**20.02.2025**

*Mehak*

*Whether reasoned/speaking?*  
*Whether reportable?*

*Yes/No*  
*Yes/No*