

**RSA-1334-1990 (O&M)**

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****RSA-1334-1990 (O&M)
Reserved on: 18.08.2025
Pronounced on:20.08.2025**

The Punjab Wakf Board Ambala Cantt.

.....Appellant

VERSUS

Hamid (deceased) through LRs & Others

.....Respondents

CORAM: HON'BLE MS. JUSTICE MANDEEP PANNU

Present: Mr. Sandeep Punchhi, Advocate for the appellant.

Mr. Sanjeev Kumar Bawa, Advocate for respondent No.1.

Service of respondent No.2 dispensed with
Vide order dated 07.09.1995

Mr. B.R.Rana, Advocate for respondent No.3.

MANDEEP PANNU, J

1. The present Regular Second Appeal has been filed by the Punjab Wakf Board (appellant/defendant No.1) against Hamid and others (respondents/plaintiff and defendants No.2 and 3. herein), challenging the concurrent findings of the courts below recorded in judgments and decrees dated 21.02.1989 and 08.03.1990.

2. The plaintiff, Hamid, filed a suit for declaration and permanent injunction claiming ownership and possession of the suit land on the ground that his family had been in continuous possession for more than one hundred years, starting from the time of his forefathers. He pleaded that the possession of his



father, Jumna, and thereafter his own possession was adverse to the true owners and that by virtue of uninterrupted, open and hostile possession, their rights had ripened into ownership. According to him, the land had been wrongly transferred in the name of the Punjab Wakf Board without any notice to him, and such transfer behind his back was in violation of principles of natural justice. He denied that the land was ever a graveyard or wakf property, asserting instead that it was used as a kabaila (slaughterhouse), and pointed out that in earlier surveys, the land had not been treated as wakf property. The subsequent survey treating it as wakf property was alleged to be illegal and ineffective against him.

3. The Punjab Wakf Board, defendant No. 1, contested the suit by denying that the plaintiff was either in possession or had matured title by adverse possession. It was specifically pleaded that the suit land was duly vested in the Wakf Board and had been so notified. The objection of want of notice under Section 56 of the Wakf Act was also taken. Defendants No. 2 and 3 did not contest and were proceeded ex parte.

4. The trial Court framed following issues:-

1. Whether the plaintiff is in possession of the suit land as owner?
OPP
2. Whether the suit land has legally vested in defendant No.1?
OPD
3. Whether the suit is bad for want of notice under Section 56 of the Wakf Act? OPD
4. Whether the plaintiff is stopped from filing the present suit?
OPD
5. Whether the suit is not maintainable in the present form? OPD



6. Whether the suit has not been properly valued for the purpose of court fee and jurisdiction? OPD

7. Relief.

5. The evidence was led by both the parties and after appreciating evidence the learned trial Court held that the plaintiff was in possession of the land but not its owner, and further that the land vested in the Wakf Board by virtue of the notification. The plea of want of notice was decided against the defendants, and the suit was held maintainable. Consequently, the suit was decreed for permanent injunction, restraining the Wakf Board from dispossessing the plaintiff otherwise than in due course of law, but the declaration of ownership was refused.

6. In appeal, the lower appellate court reversed the findings on ownership. The appellate court, after examining the revenue records and oral testimony, held that the plaintiff and his father before him had been in continuous possession for several decades, that such possession was open and hostile, and that by efflux of time, ownership had ripened in their favour by adverse possession. The court also noticed that the initial notification did not include the suit property, and its subsequent inclusion was behind the back of the plaintiff and therefore not binding. The suit was decreed in full, declaring Hamid to be the owner by adverse possession and granting injunction against the Wakf Board.

7. Aggrieved, the Wakf Board filed the present Regular Second Appeal.

Submissions of learned counsel for the parties

8. Learned counsel for the appellant submits that the Appellate Court erred in deciding Issue No.1 in favour of respondent No.1/plaintiff as there is no material on record to show that respondent No.1/plaintiff was owner in possession of the land in dispute. He further submits that the plea of plaintiff that he became



owner over the land in dispute by way of adverse possession is not proved as there is entry in the revenue record to show that father of the plaintiff was in permissive possession. He further submits that the land in question duly vests with the Punjab Wakf Board.

9. Learned counsel for respondent No.1 submits that plaintiff/respondent No.1 was in actual possession of the land in dispute from the time of his ancestors and he was continuously in cultivating possession of the the land in dispute even after death of his father. Therefore, the land belongs to him as his adverse possession against owners has ripened into ownership.

Findings

10. Plaintiff derives his right, interest and title qua the property in dispute on the basis of adverse possession against true owners without disclosing the names of true owners and denying the ownership of Wakf Board in suit property. Plaintiff is silent as to against whom plaintiff claims his possession as hostile and adverse. The claim of ownership by adverse possession has to satisfy the well-settled requirements of law i.e. the possession must be continuous, open, hostile to the true owner, and accompanied by the intention to possess as owner. In the present case, the plaintiff himself relies upon entries in the revenue records which repeatedly describe his father, Jumna, and thereafter himself, not as owners but as persons recorded in the cultivation column as '*Gair Marusi*' under the title of governmental or public authorities. Such entries clearly establish that the nature of their possession was permissive or at best as a tenant-at-will and not hostile to the real owner. The mere longevity of possession, without the animus of open hostility and denial of the title of the true owner, cannot ripen into ownership. This is



particularly so when plaintiff is specifically denying the ownership of Wakf Board and is shown as tenant-at-will in revenue record.

11. Coming to the next contention of the plaintiff that notification declaring Wakf Board as owner has no effect and is not binding upon plaintiff. The same is also devoid of any force. The notification produced by the Wakf Board, Exhibit D1, records the land in dispute as wakf property. Once such notification is issued in the official gazette under the Wakf Act, it carries with it a presumption of correctness and finality unless specifically challenged in accordance with law before the competent forum. The plaintiff did not challenge the notification by any statutory proceeding but only alleged that it was done behind his back. The plea of want of notice cannot invalidate a statutory notification published under the Act, particularly when wakf properties vest in the Board by operation of law. The notification has statutory force, and the civil court cannot ignore its binding effect unless set aside by the appropriate forum.

Conclusion

12. In view of the above discussion, this Court is of the considered opinion that the findings of the lower appellate court recognising ownership of the plaintiff by adverse possession are legally unsustainable. The plaintiff's possession, though long, was permissive in character and did not have the necessary hostility to ripen into ownership. The notification (Exhibit D1) conclusively establishes the title of the Wakf Board.

13. The judgment and decree of the lower appellate court dated 08.03.1990 is accordingly set aside, and that of the trial Court dated 21.02.1989 is upheld.



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14. The appeal is allowed. No order as to costs.
15. Pending application(s), if any, also stand disposed of.

August 20, 2025
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(MANDEEP PANNU)
JUDGE

Whether speaking/non-speaking : Speaking

Whether reportable : Yes/No