



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
132 **CR-1971-2025(O&M)**
Date of decision: 01.04.2025

Punjab Waqf Board

...Petitioner(s)

Vs.

Gurudwara Shri Singh Sabha & Another

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr.Liaqat Ali, Advocate
for the petitioner.

NIDHI GUPTA, J.

Present petition has been filed under Article 227 of the Constitution of India for setting aside the impugned order dated 3.12.2024 (Annexure P-7), passed by Rent Controller, Ludhiana, whereby the application filed by the petitioner Board, under order 1 Rule 10 read with section 151 C.P.C. for impleading it/Punjab Waqf Board, as a respondent no.2 in the Rent Petition has been dismissed by the Rent controller, Ludhiana.

2. Learned counsel for the petitioner inter alia submits that the application of the petitioner for impleadment has been wrongly dismissed by the learned trial Court as it is admitted fact on record that the petitioner is owner of the property in dispute. As such, the petitioner was a necessary party to the proceedings pending before the learned Rent Controller. However, the respondent No.1 had alleged himself as owner/landlord of the demised premises and filed present Rent Petition



against respondent No.2. Whereas, in actual fact, it is the petitioner that is owner of the suit property. This fact i.e. the ownership of the petitioner has been admitted by respondent No.2 in another Civil Suit No.470 of 2021 for permanent injunction filed by respondent No.2 in which petitioner was party. It is submitted that in these facts, the learned Rent Controller could not have dismissed the application of the petitioner for impleadment. It is accordingly prayed that the present petition be allowed, the impugned order be set aside, and the application of the petitioner for impleadment, be allowed.

3. No other argument is made on behalf of the petitioner.
4. I have heard learned counsel for the petitioner and perused the case file in great detail.
5. The respondent No.1-Gurudwara Shri Singh Sabha has filed Rent petition dated 'Nil' (Annexure P-2), under Section 13 of East Punjab Urban Rent Restriction Act, 1949 (as amended up to date) for eviction of respondent no.2 from shop no.2 measuring 8.1/2' X 10.1/2' shown as red in the site plan attached and forming part and parcel of property of Gurudwara Shri Singh Sabha (Regd.), Guru Arjun Dev Nagar, Chowk Khud Mohalla, Ludhiana. It is the case of the petitioner-Board that as per the Gazette Notification (Annexure P1) published in the Gazette of India on 19th September, 1970 against Entry No.617 in which the property measuring 15 marlas bearing Municipal Corporation New No.B-XI-S-



25/1077 to 1077/7, Municipal Corporation Old No.B-X-150 EP No.V-II/4 to 13 situated at Khud Mohalla, Ludhiana is Waqf property. Even the property is recorded in the name of Punjab Waqf Board in the record of Municipal Corporation, Ludhiana. As per the petitioner, the respondent No.1 is wrongly alleging himself to be owner/landlord of the subject property and has wrongly filed Rent Petition seeking eviction of respondent No.2 from the said property. Accordingly, the petitioner being owner of the subject property, had filed the present application dated 6.8.2024 (Annexure P-7), seeking impleadment in the said Rent Petition pending before the learned Rent Controller, Ludhiana.

6. It has firstly been contended by learned counsel for the petitioner that the ownership of the petitioner over the subject property has been admitted by respondent no.2 in the Civil Suit No.470 of 2021 titled as "Balwinder Singh Vs. Gurudwara Shri Singh Sabha & Another" (Annexure P4). The said civil suit was filed by respondent no.2 against respondent No.1/ defendant no.1 therein, in which the petitioner is defendant No.2; and seeking a decree for permanent injunction, restraining the defendants from interfering in the peaceful possession of the plaintiff/respondent no.2 over the tenanted premises. It is but trite to suggest that any such purported admission of respondent No.2 in another Civil Suit No.470 of 2021 will be of no help to the petitioner as the issue of ownership is between the petitioner and respondent No.1, and not respondent no.2.



Even otherwise, the said Civil Suit No.470 of 2021 was firstly withdrawn by respondent No.2 qua petitioner vide order dated 05.12.2022 (Annexure P6colly). Subsequently, the main Suit itself was withdrawn by respondent No.2 vide order dated 19.01.2023 (Annexure P6 colly).

7. It is to be noted that previously also in the year 2009, the respondent no.1 had filed a rent petition seeking eviction of the father of respondent no.2 in respect of the same property on ground of arrears of rent, and for being a source of nuisance. The said petition was dismissed by the Rent Controller vide order dated 17.1.2014 (Annexure P-3). A perusal thereof shows that in the said petition, an Issue no.4 was framed by the Rent Controller to the effect that *“Whether the petition has not been filed by competent person? OPR.”* The findings of the learned Controller in respect of the said Issue no.4 are contained in paras 29 and 30 of the order dated 17.1.2014, and the same reads as follows: –

“29. Onus to prove the issue no. that whether the present petition is filed by competent person or not was on the respondent. Ld. Counsel for respondent has argued that the demised shop belongs to Punjab Wakf Board and Gurudwara Shri Singh Sabha who is the petitioner in this case is not the owner of the property. As such this petition is not filed by competent person. To prove this fact, the respondent examined RW-4 Gulzar Mohd. Rent Controller Punjab Wakf Board who deposed that the property bearing Municipal no.B-XI-S-25/1077 to 1077/7 (New) and old no.B-X-150 and property bearing no.B-10-370-old and new no.B-XI-S- 31-1078 situated



at Khud Mohalla is owned by Wakf Board Ludhiana. In the said property Gurudwara Singh Sabha has been constructed along with shops by the petitioner illegally. The petitioner is not the owner of the demised property. The petitioner is in illegal possession of the land under Gurudwara.

30. This witness has not placed on record any relevant document or any extract of the register which he has produced in the Court to show that Punjab Wakf Board is the owner of the demised property. Moreover in this case the rent is being paid to Gurudwara Shri Singh Sabha by the respondent. Therefore one fact is clear that respondent consider the petitioner as landlord. Moreover it is not necessary that the landlord must be the owner of the property.”

8. Thus, petitioner has shown nothing even now to connect it with the subject property. On the contrary, from the above facts, it is clear that it is a long ongoing assertion of the petitioner-Board that it is owner of the suit property. However, it is not denied that respondent no.2, and before him his father, have been paying rent to the respondent no.1 for decades. Needless to say, any dispute regarding ownership cannot be decided in a proceeding in a Rent Petition filed under section 13 of the Act. If third party sets up a plea that he is owner of a property, the said issue can only be decided by way of a separate title suit and not in a rent proceeding as the Rent Controller is not a Civil Court and cannot decide title. As such, prima facie, for the purposes of the present lis, the petitioner is not shown



to have any concern with the subject property; and was therefore, not a necessary party to the present rent petition.

9. Learned Rent Controller vide impugned order has rightly dismissed the said application of the petitioner by relying upon judgment of this Court in **“Tejinder Singh Sandhu Vs. Davinder Singh Sandhu” Civil Revision No.3818 of 2010 Punjab & Haryana High Court**, to hold that:

“6. If the third party sets up a plea that he is the owner of the same the said controversy has to be decided by way of a separate title suit and not in the present petition. The rent controller is not a civil court and is having a limited jurisdiction and cannot go beyond its jurisdiction and cannot decide the title and whether a person bona-fide purchaser or not.

7. In the present case also, the applicant alleged himself to be owner of the suit property on the basis of notification which is subject matter of proof. On the one side it was alleged by the petitioner that he is an exclusive owner of the suit property. On the other side applicant alleging that he is an exclusive owner of the suit property. The court is of the view that being a Rent Controller, the Rent Controller a tribunal of limited jurisdiction has no jurisdiction to determine ownership disputes and complex questions of title arising between the petitioner/landlord. The Rent Controller has to decide the dispute between the landlord and tenant and not between the third parties. Therefore, there is no scope for impleading third parties claiming ownership rights in eviction petition. If the applicant is aggrieved, he may institute appropriate civil proceedings for redressal of his grievances separately.”



10. In view of the above, present petition is **dismissed**.
11. Pending application(s) if any also stand(s) disposed of.

01.04.2025
Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No