

**Before the Wakf Tribunal, Faridkot,  
Presided over by Shri Harbans Singh Lekhi,  
Additional District Judge, Faridkot.  
(Unique Identification No.PB0113)  
(Exercising the powers of Tribunal under the Wakf Act)**

Case No.	05 of 13.5.2020
CIS No.	CS/07/2020
CNR No.	PBFD01-1365-2020
Date of order	3.12.2020

1. Ravinder Singh Cheema, aged about 59 years, son of Mohinder Singh son of Ujjagar Singh;
2. Baljinder Kaur @ Baljit Kaur, aged about 55 years, wife of Ravinder Singh Cheema son of Mohinder Singh;  
both residents of House No.376, Housefed Colony, Dabwali Road, Bathinda, Tehsil and District Bathinda.

.....Plaintiffs.

Versus

1. Chief Executive Officer, Punjab Wakf Board, SCO No.1062/63, Sector 22-B, Chandigarh.
2. Estate Officer, Punjab Wakf Board, branch at Dargah Hajji Rattan, Bathinda.
3. Municipal Corporation Bathinda, through its Superintending Engineer.

.....Defendants

**Suit for permanent injunction and mandatory injunction.**

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***Application under Order 39 Rule 1 and 2 CPC.***

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Present: Sh.Karamjit Singh Dhaliwal, Advocate,counsel for the plaintiffs/applicants.  
Sh.Ashu Mittal Advocate, counsel for defendant No.1.  
Sh.Vinod Maini, Advocate, counsel for defendant No.2.  
Sh.Vinod Kumar Monga, Advocate, counsel for defendant No.3.

**ORDER:**

This order shall dispose of application under order 39 rule 1 and 2 CPC, filed by plaintiffs, for grant of temporary injunction for restraining the defendants from interfering into their peaceful, lawful and exclusive possession over the land measuring 16 kanals zero marla, bearing Rect. No.34, killa No.24/8-0, 25/8-0, bearing khewat No.1/1, khatoni No.1, as per copy of jamabandi for the year 2014-2015, situated in the revenue limits of Dargah Hajji Rattan, Bathinda, and further restraining the defendants from dispossessing the plaintiffs from the suit land, forcibly, illegally and without in due course of law, and further restraining the defendants from further allotting the suit land to any other persons, till the final disposal of the case. It is alleged that prima facie case is in favour of plaintiffs/applicants. Balance of convenience also lies in their favour. If stay application is not allowed and temporary injunction, as prayed for, is not granted, then they will suffer huge and irreparable loss, which will not be compensated with costs and very purpose of filing the suit will become infructuous.

2. In brief, facts of the case are that defendants No.1 and 2 are recorded as owners of the suit land, as detailed above and they had leased out the suit land to plaintiffs since long and they are regularly paying the lease amount to the defendants. Plaintiffs had paid Rs.29,130/-, vide Book No.283, receipt No.0028261 dated 1.4.2014, covering the period from 2011-2012 to

2013-2014. Earlier Rs.88,000/- for the period from 2000-2001 to 2010-2011 was paid by plaintiffs to the defendants, vide Book No.283, receipt No.0028280 dated 1.4.2014. Accordingly, defendants had put the plaintiffs in actual and physical possession of the suit land, as lessees and since then plaintiffs are in peaceful, continuous, established, exclusive and legal possession over the suit land and are sowing seasonal vegetables and are getting the fruits of the suit land. Khasra girdawaries are also entered in the name of plaintiffs. In the start of January, 2020, the officials of defendant No.2 had started denying to receive the lease amount, due to the reasons best known to them. Then plaintiffs had approached defendant No.2 with the request to receive the said amount, but defendant No.2 also refused. As such, plaintiffs sent a Bank draft of Rs.96,000/- for the period from 2014-2015 to 2019-2020, to the defendants. On 3.3.2020, plaintiffs through their counsel Sh.Gurtej Singh Sidhu, Advocate, District Courts, Bathinda, had issued legal notice under Section 89 of the Wakf Act, to both the defendants, through registered post. Thus, plaintiffs have already paid the lease amount till date and are in legal and lawful possession of the suit land. Now defendants, with malafide intention, to harm and harass the plaintiffs, are not issuing the receipt of payment of the amount of Rs.96,000/- to them, rather they are trying and threatening to interfere into the peaceful, lawful and exclusive possession of the plaintiffs over the suit land and are giving open threatens to dispossess them from the suit land, forcibly, illegally and without in due course of law and they are also declaring to allot the suit land to some other persons, to which they have no right. Even in the evening of 11.5.2020, officials of defendants including defendant No.2 came at the spot and tried to

interfere into the peaceful, lawful and exclusive possession of the plaintiffs over to suit land and to dispossess them from the suit land, by adopting coercive methods, but with the timely intervention of the respectables, they went from the spot, while giving open threats that they will come again with bigger force and policemen and will definitely dispossess them from the suit land. In case defendants succeed in their such nefarious activities, then plaintiffs will suffer a huge and irreparable loss, which will not be compensated in any manner and it will create legal complications. Plaintiffs requested the defendants to admit their claim, but they refused to do so, which led them to file the present suit.

3. Upon notice, counsel for defendants 1 and 2 appeared and filed the written statement taking preliminary objections that present suit is not maintainable, as no suit can be filed against the defendants without serving proper notice, as required under Wakf Act, 1995. Plaintiffs are not in possession of the suit land, so, suit is liable to be dismissed. Plaintiffs have not come to the Court with clean hands and as such, they are not entitled to equitable relief of injunction. The true facts are that suit land was leased out to plaintiffs for the year 1997-1998 and thereafter, lease was extended from time to time. Plaintiffs deposited the lease money upto 2012-2013 and thereafter, they did not get extended the lease deed and never paid the lease amount inspite of requests, by the defendants and at last, plaintiffs delivered the possession of suit land to the defendants. Now, possession of suit land is with the Municipal Corporation, Bathinda. Plaintiffs have filed the present suit only to grab the suit land. It is settled law that no injunction can be granted against the true owner. Suit is bad for non joinder of necessary party as Municipal Corporation, Bathinda, is

necessary party. On merits, their ownership over the suit property is admitted by the defendants. It is denied that plaintiffs have regularly paid the lease amount to the defendants and are in possession of the suit land. It is submitted that plaintiffs are trying to take benefit of wrong entries of Khasra Girdawaries. Otherwise, after the expiry of lease deed, plaintiffs were not entitled to remain in possession of the suit land. When plaintiffs are not in possession of suit land, then question of sending draft does not arise at all. Plaintiffs have concocted a false story. Remaining averments made in the plaint were denied and lastly it was prayed that suit be dismissed with costs.

4. Reply to the injunction application was also filed denying the averments as mentioned in the application and also submitted that plaintiffs are trying to take benefit of wrong entries of khasra girdawari, otherwise, after expiry of lease deed, plaintiffs were not entitled to remain in possession of suit land. When the plaintiffs are not in possession of suit land, then question of visiting the plaintiffs in the office of defendants for payment of rent, does not arise at all. Under the garb of present suit plaintiffs are trying to grab the land of defendants and lastly prayed that application be dismissed with costs.

5. Vide order dated 1.9.2020, application under Order 1 Rule 10 CPC for impleading Municipal Corporation, Bathinda, as defendant No.3, was allowed. So, defendant No.3 filed written statement taking preliminary objections that suit of plaintiffs is infructuous and is not maintainable, as plaintiffs are not in possession of suit land or any portion of the same. Defendant No.3 is in active possession of land measuring 82

kanals 12 marlas comprising in khasra No.37/3/8-0, 4/5-16, 5/0-17, 8/1-17, 34/24min/6-0, 25min/6-0, 24min/2-0, 25min/2-0, 37/1/2/4-4, 2/8-0, 9/5-16, 10/8-0, 11/1-17, 38/6/8-0, 7/1/6-8, 8/1/2/0-1, 14/2/1/1-18, 15/5-18, situated at Hajji Rattan, Mansa Road, Bathinda and said land is the ownership of defendant Wakf Board, who, vide order No.49/legal/16634/2020/20922 dated 04.06.2020, has leased out this land in favour of defendant No.3 and delivered the actual physical possession of the same at the time of lease. A rain water storage tank is being constructed in the said land, by defendant No.3, with an estimated cost of Rs.20-23 lacs. The construction is in progress. The land is ownership of defendant No.1. As plaintiffs are not in possession of any portion of the said land, so, present suit is not maintainable. Plaintiffs have no locus standi and cause of action to file the present suit. The plaintiffs have concealed the material facts from the Court. On merits, ownership of defendants No.1 and 2 over the suit land is admitted. It is denied that plaintiffs are in possession over the suit land. It is denied that plaintiffs have paid any lease amount to defendants No.1 and 2 for the period from 2014-2015 to 2019-2020, rather defendant No.3 has paid the lease money to defendants No.1 and 2 with effect from 1.6.2020 and onwards, for 30 years. Remaining averments are denied and lastly, it is prayed that suit of plaintiffs be dismissed.

6. Reply to the injunction application was also filed by defendant No.3 denying the averments as mentioned in the application and reiterating the version as stated in the written statement. It is lastly

prayed that application be dismissed.

7. This Tribunal has heard the arguments advanced by learned counsel for the parties and have carefully gone through the record of this case.

8. Learned counsel for applicants/ plaintiffs argued that Punjab Wakf Board is the owner of the suit land and same was leased out to the plaintiffs since long and they are regularly paying the lease amount to the defendants. The Khasra girdawaries of the suit land are also entered in the name of plaintiffs. In the month of January, 2020, officials of defendant No.2 had started denying to receive the lease amount and then plaintiffs sent a bank draft of Rs.96,000/- to defendants and thus, plaintiffs have already paid the lease amount till date and are in legal and lawful possession of the suit land, but defendants No.1 and 2 have threatened to interfere in the possession of plaintiffs over the suit land in connivance with defendant No.3 and defendant No.3 has wrongly claimed its possession over the suit land. He argued that plaintiffs have good prime facie case, balance of convenience also lies in their favour and if defendants are not restrained from interfering into possession of plaintiffs over the suit land and auctioning the land to some other person, then certainly they will suffer irreparable loss and prayed that application be allowed. In support of his contentions, he has placed reliance upon ***Gurnam Singh and others Versus Jagjit Singh Rosha 1975 P.L.J. 505***, wherein it has been held by the Hon'ble Punjab & Haryana High Court that correction of khasra girdawari entries during the pendency of temporary injunction granted by the Civil Court not relevant. Civil Court to assess independently the evidence regarding possession adduced by parties before Revenue Authorities.

9. On the other hand, learned counsel for defendants No.1 and 2 have argued that Punjab Wakf Board is the owner of the suit land and earlier plaintiffs were in possession of the same, as same was leased out to them in the year 1997-1998 and thereafter lease period was extended from time to time and they had deposited the lease amount upto 2012-2013, but thereafter, they did not get the lease deed extended and never paid the lease amount. They delivered the possession of suit land to defendants and now possession of suit land is with defendant No.3/Municipal Corporation, Bathinda. They further argued that plaintiffs have not come to the Court with clean hands and have filed the suit on wrong facts. The plaintiffs have no prima facie case and balance of convenience lies in favour of defendants and plaintiffs would not suffer any loss if injunction is not granted and lastly prayed for dismissal of application.

10. Learned counsel for defendant No.3 has argued that suit of plaintiffs is not maintainable, as the plaintiffs are not in possession of any portion of the suit land, rather defendant No.3 is in actual possession of the land measuring 82 kanals 12 marlas, which has been leased out by the Punjab Wakf Board, vide order dated 4.6.2020. A rain water storage tank is being constructed in the suit land by defendant No.3, with the estimated costs of Rs.20-23 lacs. Therefore, plaintiffs are not entitled to the injunction, as prayed for and prayed that injunction application be dismissed. In support of his contentions he has placed reliance upon ***Manjinder Singh Versus Bhupinder Singh and others 2013(2) Civil Court Cases 538 (P&H)***, wherein it has been held by the Hon'ble Punjab & Haryana High Court that lessee in possession beyond lease period



without consent of landlord is not entitled to injunction. Reliance was also placed upon ***Som Nath Versus Punjab Wakf Board and others 2020(2) Law Herald (P&H) 1198***, wherein it has been held by the Hon'ble Punjab & Haryana High Court that on account of non payment of rent of the suit property by the plaintiff over and above the property covered in the allotment order, the possession became unauthorized thereafter and such occupant cannot be held entitled for grant of permanent injunction against true owners. Plaintiff had no right to remain in possession of the disputed property, which was not even allotted to him. Plaintiff had no right to maintain his suit for grant of permanent injunction and he cannot be said to be occupier of the suit property in a lawful manner.

11. After considering the rival contentions raised by learned counsel for the parties and going through the record, this Tribunal is of the considered view that injunction application deserves dismissal.

12. Admittedly, Punjab Wakf Board is the owner of the suit land and as per copy of receipt, earlier the land was leased out to the plaintiffs and khasra girdawari was entered in their name. But, Assistant Collector Second Grade (Tehsildar), Bathinda, vide order dated 16.6.2020, has corrected the khasra girdawari in the name of Punjab Wakf Board, from 2014-2015. As per own version of plaintiffs, they had paid the lease amount upto the year 2014 and that they send a bank draft of Rs.96,000/-, for the period from 2014-2015 to 2019-2020 to defendants No.1 and 2, which was not accepted by them. It, thus, shows that lease of the suit land in favour of plaintiffs was not extended by defendants No.1 and 2 and they have every right to lease out the same to

any other person. Therefore, plaintiffs cannot claim themselves to be in possession to the suit land, as lessee of defendants No.1 and 2. Rather, as per documents produced on record, the land has been leased out to defendant No.3 and work of rain water storage tank is being carried out in the said land. That being so, plaintiffs have no prima facie case in their favour, balance of convenience lies in favour of defendants. The plaintiffs shall not suffer any loss if injunction is not granted, as they are not in possession of the suit land. They have filed the suit by concealing the true facts and thus, have not come to the Court with clean hands, so, they are not entitled to the injunction, as prayed for. In such a scenario the ruling referred by learned counsel for plaintiffs is not applicable to the facts of the present case.

13. Resultantly, in view of the above discussion and case law referred by learned counsel for defendant No.3, the application under Order 39 Rule 1 and 2 CPC, filed by the plaintiffs stands dismissed. However, any observation made above shall have no bearing on the merits of the case.

**Pronounced in open Court.**

**Dated: 3.12.2020**

*(Sonia Devi)*

**(Harbans Singh Lekhi),  
Chairman, Wakf Tribunal,  
Faridkot.**

**(Unique Identification No.PB0113)**

**Dr.Inam Ur-Rehman  
(Member)**

Present: Sh.Karamjit Singh Dhaliwal, Advocate,counsel for the  
plaintiffs/applicants.  
Sh.Ashu Mittal Advocate, counsel for defendant No.1.  
Sh.Vinod Maini, Advocate, counsel for defendant No.2.  
Sh.Vinod Kumar Monga, Advocate, counsel for defendant No.3.

Remaining arguments on application under Order 39 Rule 1 and 2  
CPC heard. Vide separate detailed order of even date, application has been  
dismissed, as detailed therein.

From the pleadings of the parties following issues are  
framed:-

1. Whether plaintiffs are in possession of the suit land?  
OPP
2. Whether plaintiffs are entitled to the permanent  
injunction, as prayed for?OPP
3. Whether plaintiffs are entitled to the mandatory  
injunction, as prayed for?OPP
4. Whether suit of plaintiffs is not maintainable?OPD
5. Whether plaintiffs have no locus standi to file the  
present suit?OPD
6. Whether plaintiffs have no cause of action to file the  
present suit?OPD
7. Whether plaintiffs have not come to the Court with  
clean hands and have suppressed material facts from  
the Court, if so, its effect?OPD
8. Relief.

No other issue arises or is pressed for. To come up on  
28.1.2021 for evidence of plaintiffs. PF/DM/list of witnesses, if any, be  
furnished within a week.

**Pronounced in open Court.**

**Dated: 3.12.2020**

*(Sonia Devi)*

**(Harbans Singh Lekhi),  
Chairman, Wakf Tribunal,  
Faridkot.**

**(Unique Identification No.PB0113)**

**Dr.Inam Ur-Rehman  
(Member)**

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