



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

(102)

RSA No. 2723 of 1994(O&M)**Reserved on:17.11.2025****Pronounced on: 20.11.2025****Uploaded on: 20.11.2025**

Onkar Nath (deceased) through LRs

...Appellants

Versus

Punjab Wakf Board, Ambala Cantt through its Estate Officer, Hoshiarpur

...Respondent

CORAM : HON'BLE MR. JUSTICE VIRINDER AGGARWAL**Present :** Mr. K.S.Dadwal, Advocate
for the appellants.Mr. J.S.Bhatia, Advocate
for the respondent.**VIRINDER AGGARWAL,J.**

1. The present Regular Second Appeal under Section 41 of Punjab Courts Act, 1918 and Section 100 of the Code of Civil Procedure, 1908, is directed against the judgment and decree dated 10.09.1992 passed by the learned Sub Judge Ist Class, Hoshiarpur, as affirmed in appeal vide judgment and decree dated 21.07.1994 by the learned Additional District Judge, Hoshiarpur, whereby the suit for recovery of possession and arrears of rent of a shop filed by the respondent-Punjab Wakf Board was decreed.

BACKGROUND FACTS

2. The respondent-Board instituted a suit for recovery of possession of a shop situated at Bahadarpur Chowk, Hoshiarpur, a notified Wakf property, and



for recovery of arrears of rent amounting to ₹144/- pending upto 31.12.1987. It was the case of the respondent/plaintiff that the appellant/defendant was a tenant at a monthly rent of ₹8/- since the year 1964, that the tenancy had been terminated by service of a notice under Section 106 of the Transfer of Property Act dated 09.11.1987, and that the tenant failed to tender vacant possession. The appellant/defendant admitted tenancy but challenged the validity of the notice, the authority of the Estate Officer to institute proceedings on behalf of the Board and maintained that the East Punjab Urban Rent Restriction Act, 1949, governed the tenancy and therefore the Civil Court lacked jurisdiction.

3. Both the learned Courts below concurrently held that the notice dated 09.11.1987 was validly issued under the authority of the Secretary of the Wakf Board and the Estate Officer had been duly authorised by the Administrator/Secretary to institute the suit pursuant to the Gazette Notification dated 06.06.1987. Further learned Courts below held that the suit property being a notified Wakf property was excluded from the operation of the East Punjab Urban Rent Restriction Act by virtue of the statutory Notification issued under Section 3 of the Act. Further held that the appellant was in arrears of rent and on valid termination of tenancy the respondent-Board became entitled to possession and decreed the suit in favour of Respondent-Plaintiff. These findings were recorded on evidence and were affirmed on first appeal.

CONTENTIONS

4. Learned counsel for the appellants argued that the notice dated 09.11.1987 had not been lawfully served and, therefore, the tenancy could not be deemed to have been validly terminated. It was contended that no resolution of the Wakf Board authorising the initiation of proceedings had been produced, and that the legal notice itself was not issued by a competent authority empowered to



terminate the tenancy. It was further urged that the Estate Officer lacked authority to sign and institute the suit.

5. In response, learned counsel for the respondent submitted that the notice dated 09.11.1987 had been validly issued through counsel acting on the instructions of the Secretary, and that its service stood duly proved in accordance with Section 106 of the Transfer of Property Act. It was further submitted that the Gazette Notification dated 16.04.1987 expressly delegated to the Estate Officers the power to institute and defend proceedings, subject to prior approval of the Secretary or Administrator, which approval was subsequently granted by the letter dated 22.12.1987. Placing reliance on the documentary and oral evidence, it was argued that the concurrent findings recorded by both the Courts below were well-reasoned and called for no interference in second appeal.

OBSERVATIONS AND FINDINGS

6. Having considered the record and the rival submissions, the following substantial questions of law arise for adjudication:

(i) Whether the notice dated 09.11.1987 (EX.P-2) terminating the tenancy was validly issued and served?

(ii) Whether the Estate Officer was duly authorised to institute the suit on behalf of the Punjab Wakf Board?

Validity of Notice Dated 09.11.1987

7. At the outset, it is noted that the notice dated 09.11.1987 (EX.P-2) terminating the tenancy is, in substance and legal effect, a notice under Section 106 of the Transfer of Property Act, 1882 (hereinafter referred as “TPA”). The notice dated 09.11.1987 (EX.P-2) was issued by the authorised counsel



(Joginder Pal Walia, Advocate) of the Punjab Wakf Board and was dispatched through registered post, thereby satisfying the statutory requirement of notifying the tenant of the landlord's intention to bring the tenancy to an end. Further, the record demonstrates that the notice was issued somewhat in advance of the subsequent administrative approval dated 22.12.1987 (EX.P-5). However, such chronological sequence does not invalidate the notice. What Section 106 TPA mandates is a clear communication of the landlord's intention to terminate the tenancy. Once the tenant is duly apprised of this intention and where the dispatch of the notice by registered post creates a presumption of service, its purpose stands fulfilled. A notice issued slightly prior to internal administrative formalities being completed does not, by itself, defeat its legal efficacy, particularly when no evidence has been produced to show any prejudice to the tenant. Moreover, the Estate Officer subsequently obtained express written permission from the Secretary, Punjab Wakf Board, vide Letter No. 49(legal)/(1638)/87/11170 dated 22.12.1987 (EX.P-5), thereby regularising and affirming the decision to proceed with the suit for ejectment and recovery. The permission letter leaves no ambiguity regarding the authority under which the proceedings were instituted.

8. In any event, even assuming some defect or irregularity in the notice, the law is well settled that absence of a prior notice, or technical defects in such notice, do not invalidate eviction proceedings. The Hon'ble Supreme Court in ***V. Dhanapal Chettiar v. Yesodai Ammal* 1979(2) rcr (Rent) 352** and ***Nopany Investment (P) Ltd. v. Santokh Singh (HUF)*, 2008 (2) SCC 728**, has held that the very institution of a suit for possession constitutes a clear manifestation of the landlord's intention to terminate the tenancy, and that procedural objections regarding notice cannot be permitted to override substantive rights. Thus, even



if the notice was assumed to be technically deficient, the filing of the suit would itself amount to valid termination of tenancy in the eyes of law. Therefore, in the light of the evidence on record and the settled legal principles, the notice dated 09.11.1987 was validly issued and served.

Authority of Estate Officer

9. It is evident from the record that, in terms of the Gazetted Notification dated 16.06.1987, powers of the Punjab Wakf Board were delegated to its Estate Officers for instituting and defending legal proceedings, subject to the condition that prior written permission of the Secretary be obtained before initiating or contesting any case. The relevant extract from the notification reads as follows:

“An Extract From Government of India Gazette No. 23 Part III Section 4

Dated 6th June, 1987 Published at Page No. 2577

Regarding Delegation of Powers to Estate Officers,

Punjab Wakf Board, Ambala Cantt.

OFFICE OF THE ADMINISTRATOR PUNJAB WAKF BOARD

AMBALA CANTT.

Dated the 16th April, 1987

DELEGATION OF POWERS TO ESTATE OFFICERS

No. Wakf/2(42)/87.—I, Naseem Ahmad, IAS, Administrator, Punjab Wakf Board in exercise of powers conferred on me under section 22 of the Wakf Act, 1954, and all enabling powers in this behalf, delegate the following powers of the Board to all its Estate Officers, who were earlier designated as Aukaf Officers, posted in the State of Haryana, Punjab, Himachal Pradesh and Union Territory of Chandigarh:—

1. To institute and defend any suit, application and other proceedings in any civil or revenue courts or before Rent Controller or any other Authority but



before instituting any case or defending any case, the permission of the Secretary in writing will be obtained.

2. To engage counsel, give instructions to the counsel, to pursue the cases filed on behalf of or against the Board, to give statement on oath or otherwise, to sign any application or written reply other than the pleadings, to compromise or withdraw any case instituted by or against the Board, with the prior written permission of the Secretary.

3. To institute suits, applications before any Gram Panchayat regarding all revenue cases and engage counsel and sign Vakalatnama for that purpose.

4. To take possession or effect recovery in execution proceedings.”

10. In the present case, Estate officer sought the permission from the Secretary, Punjab Wakf Board, Ambala Cantt. and by Letter No. 49(legal)/(1638)/87/11170 dated 22.12.1987 (Ex. P-5), Secretary expressly granted permission to the Estate Officer, Punjab Wakf Board, Hoshiarpur, to institute the suit for recovery and ejectment against Onkar Nath, after issuance of the requisite legal notice through the local counsel. Thus, the statutory requirement of obtaining prior written approval stood fully satisfied in the present matter. Consequently, the Estate Officer was duly authorised to institute the proceedings, and the action was undertaken strictly within the bounds of the delegated authority conferred under the notification as well as the subsequent administrative sanction granted by the Secretary/Administrator of the Punjab Wakf Board. Significantly, when the Board is placed under the charge of an Administrator or Secretary, the statutory framework itself contemplates centralised decision-making, and therefore express resolutions of the Board are not a prerequisite for initiating litigation. What is material is the existence of valid delegation under the statute and demonstrable administrative approval for



the specific action. Once those elements are shown, as in the present case, the authority of the Estate Officer to initiate proceedings cannot be doubted.

11. Further, the appellant produced no material to rebut the documentary proof of authorisation. On the evidence, the Estate Officer acted within the scope of powers vested by notification and administrative approval and therefore was competent to sign the plaint and prosecute the suit on behalf of the Wakf Board. The concurrent factual conclusions recorded by the learned courts below are based on a proper appreciation of the record and do not suffer from any legal error warranting interference in a second appeal. Hence, the suit was competently instituted by a duly authorised Estate Officer of the Punjab Wakf Board.

12. In the view of above discussion, both substantial questions of law have been answered against the appellants. Therefore, the concurrent findings recorded by the learned Trial Court and affirmed by the First Appellate Court are supported by evidence and correct principles of law. There is no ground available to this Court to disturb the concurrent conclusions of courts below.

13. Accordingly, the appeal is **dismissed**. The judgment and decree dated 10.09.1992 of the learned Sub Judge Ist Class, Hoshiarpur, and the judgment and decree dated 21.07.1994 of the learned Additional District Judge, Hoshiarpur, are hereby affirmed in all respects.

14. Since, the main appeal has been decided, any pending application(s), if any, also stands disposed of.

(VIRINDER AGGARWAL)
JUDGE

20.11.2025

Saurav Pathania

(i) Whether speaking/reasoned : Yes/No
(ii) Whether reportable : Yes/No