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Ram Partap v. Punjab Wakf Board, Ambala Cantt (Punjab and Haryana) : Law Finder
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PUNJAB AND HARYANA HIGH COURT

Before:-Satish Kumar Mittal, J.

C.R. No. 1773 of 2007. D/d. 3.4.2007.

Ram Partap - Petitioner

Versus

Punjab Wakf Board, Ambala Cantt & Ors. - Respondents

For the Petitioner :- Pawan Malik and P.S. Jammu, Advocates.

Wakf Act, 1995 Section 89 Notice under - Before filing the suit for permanent injunction against Punjab Wakf Board, and the persons claiming through Board, no notice under Section 89 was issued to Board - Said notice cannot be exempted by court - Suit rightly rejected for want of notice - Petition dismissed.

[Paras 1, 3 and 4]

Cases Referred :-

[Arya Prithinidhi Sabha \(Punjab\) Jullundur Now Haryana Sirsa v. Punjab Wakf Board, Ambala Cantt, \(2000\) 1 PLR 92.](#)

JUDGMENT

Satish Kumar Mittal, J. - The petitioner has filed this revision petition under Article [227](#) of the Constitution of India for setting aside the order dated 19.2.2007, whereby, the plaint of the petitioner has been rejected under Order [7](#), Rule [11](#) CPC while observing as under:-

"Notice under Section [89](#) of Wakf Act cannot be exempted by the Court. This provision is not analogous to Section [80](#) of Civil Procedure Code because under section [80](#)(2) of CPC, there is a provision for exemption of the notice but no such provision is there in Wakf Act, 1995. Therefore, the plaintiff cannot be permitted to maintain the suit without serving a notice under Section [89](#) of the Wakf Act. The authority reported in 1998 (3) Recent Civil Reports 191 cited by the learned counsel for the plaintiff does not help the plaintiff.

The net result of my aforesaid discussion is that the application for exemption of notice under Section [89](#) of the Wakf Act moved by the plaintiff merits dismissal and the same is hereby dismissed. The application under Order [7](#), Rule [11](#) read with Section [151](#) of CPC filed by defendants No.1 and 2 succeeds and the same is hereby allowed. Consequently, the plaint of the suit of the plaintiff is hereby rejected for want of notice under Section [89](#) of Wakf Act, 195."

2. I have heard counsel for the petitioner.

3. Undisputedly, before filing the suit for permanent injunction against the Punjab Wakf Board, and the persons claiming through Board, no notice has been issued to the Board.

4. After hearing counsel for the petitioner and in view of the law laid down by this Court in **(2000) 1 PLR 92 titled as Arya Prithinidhi Sabha (Punjab) Jullundur Now Haryana Sirsa v. Punjab Wakf Board, Ambala Cantt and others** , I do not find any ground to interfere in the aforesaid order.

5. Dismissed.

Petition dismissed.