

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Civil Revision No.1104 of 2015

Date of decision: 26.11.2015

Ujagar Singh

.....Petitioner

versus

Jagjit Singh and another

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Sunny K. Singla, Advocate for the petitioner
Mr.P.K.S. Phoolka, , Advocate for the respondents

1. *Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
2. *To be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

Impugned in the present revision is the order dated 5.1.2015 (Annexure P7), passed by the learned Additional Civil Judge, Senior Division, Talwandi Sabo.

It comes out that a suit for possession by way of partition was filed whereby the plaintiff decree holder was to get half share and defendant Nos.1 and 2 were to get half share.

An execution was filed for execution of the decree in which Halqa Kanugo was appointed as a Local Commissioner to suggest the mode of partition. The Local Commissioner found that the parties are in possession of separate portions. The possession of the plaintiff is to the extent of 1 kanal 4 marla and possession of the defendants is to the extent of 1 kanal 8 marla. However, plaintiff is entitled to 1

kanal 6 marla and therefore, he is to be given 2 marla more from the land of the defendants. It was found that in khasra No.189//2/48/1 (1-0) there is a house of the decree holder Ujagar Singh and in khasra No.189/2//48/1/2 (0-14) there is house of Malkit Singh and on khasra No.189/2//48/3(0-10), there is a house of Jagjit Singh. The Local Commissioner suggested that 2 marla area can be compensated to the decree holder by way of granting compensation or by granting possession out of khasra No.150//33 (0-4).

However, the lower Court, while disposing of the objections filed to the report of that Local Commissioner found that it is deemed proper to assess the compensation of 2 marla of land so as to fulfill the claim of the decree holder.

I have heard learned counsel for the parties and have also carefully gone through the file.

Perusal of the site plan shows that though the parties have house on khasra nos. mentioned above but land of khasra No.150//32 (0-4) and 150//33 is vacant. The land of khasra No.150//32(0-4) is in possession of Ujagar Singh - decree holder and land of khasra No.150//33 is in possession of JDs. Since the land of both the khasra nos. is vacant and contiguous, therefore, the proper way for the Court is to compensate the decree holder from khasra No.150//33(0-4).

Therefore, the impugned order is set aside and the lower Court is suggested that the deficiency of 2 marla to the decree holder should be made good from the khasra No.150//33(0-4).

Learned counsel for the respondents has stated that both the JDs also need right of passage from the remaining, left out land in

khasra No.150//33. However, the site plan prepared by the Kanugo shows that the said khasra no. is facing the passage. The passage is disputed by the respondents. The lower Court is directed to ensure that there is a passage to the left out land of the respondents.

The revision stands disposed of.

26.11.2015
gk

(Kuldip Singh)
Judge