

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No.1370 of 2015 (O&M)

Date of Decision.18.03.2015

Harpreet Singh

.....Petitioner

Versus

Dharminder Singh and others

.....Respondents

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

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers 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?

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K. KANNAN J. (ORAL)

1. The commissioner who was appointed on the defendant's application as carrying out the inspection of the property is said to have demarcated the property in suit and noted general physical features relating to existence of a *kotha* and the agricultural land South of it. The report is objected to by the petitioner that he was not present at the time when the commissioner visited the property and filed a report without intimation to him. It is also contended that he is actually in possession of the property and the commissioner has made a wrong observation with reference to possession of the property as being in the hands of one Dharminder.

2. The Court while dismissing the objections filed to the commissioner's report has noted the fact that the commissioner has filed a memo of presence of parties. The petitioner himself has signed in that memo. The plea that he was not present at the time when the

commissioner had visited the place without informing him is, therefore, not correct. If the commissioner has made an observation about possession of any party or he has collected any evidence from the local persons, the same ought to be eschewed, for, the power of the Court to determine the possession cannot be abdicated to any officer of the Court. The commissioner's report will be restricted for examining only the physical features relating to the property and extent to which the demarcation of the property had been done. I clarify that the manner of disposal of the application making an objection to the commissioner's report will still be relevant to the extent that the Court is required to assess at the time of trial about who is in possession. The report cannot be taken as determining the issue of possession of either party. The report will be relevant only for the purpose of securing the physical features available at the property.

3. With these observations, the civil revision is disposed of.

(K. KANNAN)
JUDGE

March 18, 2015
Pankaj*