

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

C.R. No.2240 of 2014
Date of Decision.30.06.2015

Mahender Singh

.....Petitioner

Versus

Anup Singh and others

.....Respondents

Present: Mr. Ashwani Talwar, Advocate
for the petitioner.

Mr. Harish Bhardwaj, Advocate
for the respondents.

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 revision petition is filed against the order passed by the trial Court in final decree proceedings in a suit for partition. The preliminary decree for partition was with reference to three parcels of land in khasra Nos.661, 662 and 673. At the stage of passing of final decree, a local commissioner has been appointed who has filed his report in respect of three khasra numbers apportioning a specific extent of property for the respective parties. The objections to the local commissioner's report have also been filed and the objections taken include a reference to the fact that the proceedings for encroachment have been taken against respondent No.1 in relation to the property in khasra No.663 which is a street abutting the property in khasra No.661 and 662. The Court below has reasoned that since the proceedings are

still pending with reference to khasra No.663, it will have a bearing on the entitlement of parties with reference to other khasra numbers as well and therefore, till the order of the authorities become final, the proceedings for final decree will not be taken up. I find the order to be patently untenable and I asked the counsel appearing on behalf of the respondents to support the same.

2. The counsel for the respondents has two objections. One, the local commissioner had visited the property without issuing notice. I cannot take this objection as relevant for consideration now, for, if the commission has carried out the inspection without notice, it will be a matter which the Court will take note of either for issue of new commission or consider the objections and if found to be untenable will proceed further on. The second objection is that the proceedings before the authorities have a bearing to the enjoyment of property in khasra Nos.661 and 662 also since they abut the property in khasra No.663. If there is any encroachment by the 1st respondent in any portion of the property in khasra No.663, it will be dealt with independently by the authorities by obtaining an ejectment and it ought not to have a bearing for division of the properties in other khasra number for which they are concerned about.

3. The order passed by the court below is set aside. The order in final decree proceedings will be passed on the basis of report after taking note of the objections taken by the parties but the Court will not fetter itself by mere pendency of the case before the authorities in respect of property in khasra No.663.

4. The revision petition is allowed. For appearance of parties

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before the Court below on 03.08.2015.

(K. KANNAN)
JUDGE

June 30, 2015
Pankaj*