

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

CR No. 2834 of 2011 (O&M)
Date of decision: April 7, 2015

Achhru Ram

...Petitioner

Versus

Reshma Rani and others

...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?**

Present: Ms. Upasana Dhawan, Advocate,
for the petitioner.

K. KANNAN, J. (Oral)

1. There is no representation for the respondents.
2. I have heard the counsel for the petitioner. The petitioner has relied on the Commissioner's report and the plan to vindicate the stand that the decree that has allowed for the decree-holder's entitlement for 5 kanals 13 marlas has been disobeyed by the judgment-debtors by encroaching upon the decree-holder's property by raising construction. It is revealed from the decree that the plaintiff has been granted 5 kanals 13 marlas in Khasra No. 82 min and the judgments debtors have been found entitled to 16 marlas in the very same khasra number. The Commissioner's report shows that the defendants are now in possession of 19 marlas. It means evidently that the judgment debtors have encroached about 3 marlas of land more than what they were found entitled in the decree. The rough plan does not indicate clearly the physical features of the property, namely, the construction of the

judgment debtors which has been encroached upon the decree-holder's property. The same would require to be appropriately demarcated so that effective direction could be given for removal of construction, if the encroachment is identified with reference to the linear measurement. Since, the Commissioner's report does not spell out the physical features and the measurements, I am of the view that in order to effectuate the decree and make the parties realize the fruits of the decree, the report already given would require to be explained further by issuing a fresh Commission. The Kanungo of the village Shahkot is appointed as a Local Commissioner who will inspect the property, identify the property in Khasra No. 82 min and measure the property of 5 kanals 13 marlas that is found to be the property of the plaintiff, as per the decree and identify the 16 marlas of the judgment debtors. The Local Commissioner will also measure the actual extent of property which the construction of the judgment-debtor occupied within khasra No. 82, for that will be the best method of determining the actual encroachment if any. The court's direction for protecting the decree under Order 21 Rule 32 of the Code of Civil Procedure will follow the report and fresh orders will be passed.

3. The impugned order is set aside and the matter is remanded to the executing court again for disposal as per the direction and in accordance with law.

4. The revision petition stands disposed of accordingly.

April 7, 2015
prem

(K.KANNAN)
JUDGE