

In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No. 3773 of 2015 (O&M)
Date of Decision: 28.5.2015.

Amana @ Amardeep Kumar and others

.....Petitioners

Versus

Jaspal Singh and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. U.K.Kanwar, Advocate
for the petitioners.

SABINA, J.

Petitioners have filed this petition under Article 227 of Constitution of India challenging the order dated 16.5.2015 (Annexure P-8) whereby objections filed by the petitioners with regard to the report submitted by the Local Commissioner, were dismissed.

Learned counsel for the petitioners has submitted that the Local Commissioner had failed to conduct the demarcation as per the High Court Rules and Orders.

Respondent No. 1 has filed suit for permanent injunction restraining the petitioners and respondent No. 2 from interfering in his peaceful possession qua *khasra* No. 534(5-13), 780/536 (6-2). During the pendency of the suit, petitioners moved an application for appointment of some revenue officer to demarcate *khasra* No. 520. Thereafter, petitioners filed the objections with regard to the report submitted by the Local

Commissioner.

The Trial Court while dismissing the objections, filed by the petitioners, has held as under:-

"I have heard the learned counsel for the parties and have perused the case file carefully. Perusal of case file reveals that plaintiff has filed the present suit for permanent injunction for restraining the defendants from interfering into peaceful possession of the plaintiff in Khasra No. 534(5-13), 780/536(6-2). Thereafter, during the pendency of the case, Ld. Counsel for the defendant filed an application for appointment of some revenue officer to demarcate the Khasra No. 520 (which is the bone of contention between the parties) to which the ld. Counsel for the plaintiff gave no objection and accordingly the application was allowed vide order dated 3.7.2014 and Naib Tehsildar, Rajpura was appointed as local commissioner, who was directed to demarcate Khasra No. 520. Thereafter, report of Naib Tehsildar/Local Commissioner was received on 5.12.2015 to which the learned counsel for the defendants filed the present objections. Now the objections have been filed by the defendants on the grounds that the demarcation has not been conducted as per instructions and orders of Hon'ble Punjab and Haryana High Court and FCR, Punjab and further the same has been filed on the ground that demarcation has not been conducted from Pucca burji and has been conducted merely from Khasra No. 490, 303,

518 & 515. Perusal of the report of Local Commissioner/Naib Tehsildar clearly reveals that it has been reported in the same that on the spot efforts were made to locate the burji and same was not found nearby. It has further been reported that thereafter North-Eastern corner of the Khasra No. 490 was located which is common/undisputed between its owners and to the same both the parties agreed. Thereafter, from Khasra No. 490, the north-western corner of Khasra No. 519, thereafter south-western corner of Khasra No. 520 was located. It has further been reported that thereafter, Northern-Western corner of Khasra no. 520 was located. As per report of Local Commissioner, thereafter to ensure the location, Khasra numbers was relocated from the South-Eastern corner of Khasra No. 303 and north-western corner of Khasra No. 309. further as per the report of Local commissioner, thereafter from the Eastern-southern corner of khasra no. 535, Khasra No. 520 was located. Thus, it is clear from the report of Local Commissioner that he has located the khasra No. 520 from three positions. As per the guidelines laid down by Hon'ble Punjab & Haryana High Court and FCR, Punjab also when there is no map available on the square system, then field Kanungo find three points on different sides of the place in dispute near to it. Thus, it is clear that the Khasra No. 520 has been located as per the guidelines only. Further, the demarcation relied upon by the

defendant in his written statement and copy of the same placed on record also clearly shows that in the same the demarcation was conducted from the Western-northern corner of Khasra no. 312 and Western-northern corner of Khasra no. 313. In the present report the common point of Khasra no. 303 and 309 from which the demarcation has been conducted, is adjacent to the point from which the demarcation was conducted on 27.5.2014. Further it has been specifically reported by the Local Commissioner that at the spot consent of the parties was taken regarding the points from which the demarcation has been conducted. The local commissioner appointed by the court is an officer of the court and his version cannot be discarded merely on the denial of one party. More so when that party has himself filed the application for demarcation and his signature are there on the memo of appearance. Accordingly, no ground for filing the objections to the report of Local Commissioner is made out and the objections are hereby dismissed. Now to come upon 03.07.2015 for consideration on stay application.”

The reasons given by the Trial Court while dismissing the objections filed by the petitioners, are sound reasons and call for no interference.

Dismissed.

**(SABINA)
JUDGE**

May 28, 2015
Gurpreet