

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

CR No.4043 of 2012 (O&M)

Date of decision: 15.12.2015

Urban Improvement Company (P) Ltd.

... Petitioner

versus

Omaxe Construction Ltd. and another

.... Respondent

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr.Vaneet Soni, Advocate for the petitioner.

Mr. Chanderkant Verma, Advocate for

Mr. Munish Gupta, Advocate for respondent No.1.

K.Kannan, J.(Oral)

Revision is against the order dismissing an application for appointment of a fresh commission for carrying out demarcation of the property. A Commission for inspection became relevant with parties in litigation contending that there are encroachments by one that is denied by the other. The Court has dismissed the application holding that when a local Commissioner's report was already there on record without court being satisfied that the report should be scrapped, a fresh commission will not be issued.

I must observe that the Court below has stated the correct position of law. However, grievance of the petitioner that the objection

to Commissioner's report already filed has not been disposed off. The Court will examine the local commissioner as a court witness allowing for both the parties to cross examine him, if the presiding Officer is convinced that the report contains any error or areas of dispute which have not resolved through the report. It can re-issue the commission in the light of the objections, if it finds merits in same. Alternatively, prima-facie, if there is no ambiguity or error in the report, the court need not to pass any order immediately and may take a decision alongwith other issues at the conclusion of the trial and make it a part of judgment. In any event, the Court should avoid blaming any party that demarcation has not been properly done. This procedure will save the Court's valuable time by not allowing for obstruction in the course of trial and to help the court to pass a judgment on all the relevant aspects of evidence given by parties along side the report.

Order already passed shall stand modified in the light of directions made above. The revision petition is disposed of.

(K.KANNAN)
JUDGE

15.12.2015
Meenu