

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

Civil Revision No.4418 of 2012 (O&M)

Date of decision:16.09.2015

Joginder Singh

... Petitioner

versus

Dr. Virinderjit Singh Gill and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Pushpinder Kaushal, Advocate,
for the petitioner.

Mr. S.D. Sharma, Senior Advocate,
with Mr. Banni Thomas, Advocate,
for respondent No.1.

Respondent No.1-A in person.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ? No.
3. Whether the judgment should be reported in the digest ? No.

K.Kannan, J. (*Oral*)

1. Report of Local Commissioner-cum-Naib Tehsildar, Moga along with one CD and site plan as received from the court of Shri Prashant Verma, learned Additional Civil Judge (Senior Division), Moga, is taken on record. This order shall be taken as continuation of the order dated 06.05.2015.
2. The property inspected and the report submitted to court by the Naib Tehsildar, Moga would show that there is no vacant

space available in 2259/4, except in an extent of 50'x33' adjoining the Maruti showroom which is stated to have been sold to yet another sharer. I was only looking for availability of vacant space on the western side for that was the property which was vacant at the time when the suit was instituted. If constructions have come subsequently and the defendant himself has allowed for such constructions to come up after the institution of the suit, he cannot have the benefit of retention of the property unless the property where the construction has come was subsequently allotted to him in the final decree. He had not applied for final decree and the plaintiff has been granted the share which is now occupied by the defendant. The final decree must go to the next logical stage of making available the property for recovery of possession and the objection taken by the defendant in relation to the execution of the decree after the final decree was passed cannot be sustained. The court has power to demolish the construction, if the petitioner-objector does not voluntarily do so.

3. The revision petition is dismissed with costs of ₹ 3,500/-.

(K.KANNAN)
JUDGE

16.09.2015
sanjeev