

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CR No. 6026 of 2015
Date of decision :November 26, 2015

Nirmal Kumar

..... Petitioner

Versus

Smt. Arwinder Kaur and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Sunil Chadha, Senior Advocate with
Ms. Swati Verma, Advocate
for the petitioner.

Mr. Narinder Pal Singh, Advocate for
Mr. B. S. Sra, Advocate
for the respondent Nos. 1 to 3.

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?

Amit Rawal, J (oral).

The challenge in the present petition is to the impugned order dated 10.8.2015 (Annexure P-4) whereby the application moved by the petitioner-defendant No.6 for seeking indulgence of the court for appointment of Local Commissioner for demarcation of the property has been dismissed.

Mr. Sunil Chadha, Senior Advocate assisted by Ms. Swati Verma, Advocate appearing on behalf of the petitioner-defendant No.6 submits that it is now a settled law, as has been held by the Hon'ble Supreme Court in **Shreepat Vs. Rajendra Prasad and othes 2000 (3) ICC 728** that where there is a dispute with regard

to the area and boundaries of the land or whether it formed part of khasra number, it would be essential to appoint revenue official for demarcation of the land .

Mr. Narinder Pal Singh, learned counsel appearing on behalf of the respondents submits that earlier the plaintiff had moved an application, the same was dismissed, therefore, now at this stage, an application at the hands of defendant No.6 who has been impleaded subsequently cannot be allowed. In fact it amounts to collecting of the evidence, therefore, such exercise cannot be permitted.

I have heard learned counsel for the parties and appraised the paper book.

The petitioner-defendant No.6 has also set up an independent counter claim seeking the possession. Once the parties are at variance viz-a-viz possession, in my view, particularly when the dispute is between plaintiff and defendant No.6 regarding possession/identity of the said property it would be essential to appoint the Local Commissioner.

In view of such situation, in my view, the application moved by the petitioner-defendant No.6 for appointment of Local Commissioner/Revenue Patwari is very much essential and necessary, in this regard, I draw support from the ratio decidendi culled out in **Shreepat's case (supra)**

The trial court has not dealt with the application in the manner as it was supposed to be done. In my view, it has not assigned any reasons but by simply observing that parties have to

lead specific evidence in order to prove the claim, such observations have erroneously been rendered as the trial court remained oblivious of the counter claim of petitioner-defendant No.6.

Keeping in view, the aforementioned facts, the impugned order is set aside. The application filed by petitioner-defendant No.6 seeking appointment of the Local Commissioner/Revenue Patwari for demarcation of the land is accordingly allowed.

The civil revision is allowed.

(AMIT RAWAL)
JUDGE

November 26 , 2015
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