

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No.7266 of 2013

Date of Decision.30.07.2015

Hari Datt and others

.....Petitioners

Versus

Navdeep Singh and others

.....Respondents

Present: Mr. Sudeep Mahajan, Advocate
for the petitioners.

Mr. K.S. Cheema, Advocate
for the 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?

-.-

K. KANNAN J. (ORAL)

1. The order passed scrapping the commissioner's report is unsupportable, for, it gives no appropriate reasons for finding that the report is wrongly drawn. Learned counsel appearing on behalf of the respondent would take me through the High Court Rules relating to how the commissioner shall carry out his work of demarcation and would also present before me the entire cross-examination of the commissioner that was undertaken before the trial Court. If it is sought to be contended that the cross-examination has brought about any finding which is at variance with the directions given in the relevant Rules then the Court must state so and give its appropriate reasons to point out as to how the work carried out by the commissioner does not correspond to the directions contained in the Rules. I find no such discussion and I will not

detain myself on an examination whether the commissioner has done its work appropriately or not. The Court in revision can only examine the correctness of the order on the basis of what is argued and if the order does not reflect any submission made by the respective counsel, I am severely handicapped to decide on the correctness of the order. The order passed is set aside and I remit the matter to the Court below but having regard to the fact that the Court has taken a view which is shoddy in my view, the matter must go to yet another Court of jurisdiction within the same Sessions Division in the same place. I will direct the matter for appropriate administrative orders of the District Judge to assign it to any other competent Court under his jurisdiction which is competent to hear the case. The Presiding Officer will take on board the entire evidence and then allow for consideration of objections to be argued upon and will take fresh decision in regard to whether it is necessary to reissue the commission or not. If she decides not to reissue the commission, it may decide on the validity of the report or to the extent to which the parties would want to place the reliance on at the time of arguments and at the time of disposal of the case.

2. With these observations, the impugned order is set aside and the revision petition is allowed and the matter is remitted to the Court below for disposal in accordance with directions given above.

(K. KANNAN)
JUDGE

July 30, 2015
Pankaj*