

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 7760 of 2014 (O&M)

Date of decision : 21.12.2015

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Puran Singh

.....Petitioner

vs.

Commissioner, Gurgaon Division, Gurgaon and others

.....Respondents

**Coram: Hon'ble Mr. Justice Surya Kant
Hon'ble Mr. Justice P.B. Bajanthri**

Present: Mr. Mukesh Yadav, Advocate for the petitioner.

Ms. Kirti Singh, Deputy Advocate General,
Haryana

Ms. Pratibha Yadav, Advocate for respondents No. 4 to 7.

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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?*

Surya Kant, J. (Oral)

The controversy pertains to the alleged encroachment made on the land comprising Khasra No. 129, which falls in *abadi deh* of Village Kotia, Tehsil Kanina, District Mohindergarh. The petitioner alleges that the private respondents have encroached upon one Marla land out of the aforesaid Khasra number and thus have obstructed the passage. In fact an eviction order was passed against them on 2.11.2004 against which their appeal was dismissed on

28.10.2005. It appears that the encroachment was removed but again the land has been encroached upon. The petitioner filed execution proceedings but the Appellate Authority has intervened in favour of the private respondents.

(2) When this petition came up for hearing on 7.8.2015, following order was passed by this Court :-

“The Tehsildar, District Mohindergarh, shall file demarcation report of Khasra No. 129 and submit a report whether there is any encroachment in Khasra No. 129.

Adjourned to 21.09.2015 to await the report.”

(3) In deference thereto Tehsildar Kanina, District Mohindergarh, has sent his demarcation report dated 16.9.2015. It is evident from the report that demarcation was carried out in presence of both the parties, who have duly signed the report. Other respectables of the village including Nambardar etc. have also signed the report. The fresh demarcation report reads as follows:-

“In presence of all the aforesaid people, permanent marking i.e. red stone of chakbandi (consolidation) was searched for carrying out demarcation. First red stone of consolidation was found in the North-East corner of Khasra No.47/S, the second red stone of consolidation was found at the distance of 400 karam, in the village Kanina,

third red stone of consolidation was found in the South-West corner of Khasra No. 61/21/2 of village Kotia. All people present at the site accepted those as correct. Hence, flags were placed on them.

In presence of all aforesaid people, after considering the permanent marking of the consolidation as the basis, demarcation was carried out by the tape of 100 ft., and Khasra No.129 Gair Mumkin thoroughfare was marked and markings were placed upon. After the demarcation, carried out at the site, no difference was found in Khasra No. 129. All people present there and both the parties accepted the demarcation, carried out at the site, as correct. Notification and list of the people, present at the site demarcation, are enclosed herewith, which are part of my demarcation report. Hence, after completing the demarcation at the site, report is submitted for further action.”

- (4) Since the parties have not disputed the fresh demarcation report dated 16.9.2015 and have accepted its correctness, we allow this writ petition to the extent that the orders passed in favour or against the petitioner in the execution proceedings are set aside and the Assistant Collector Ist Grade, Mohindergarh, is directed to decide

the Execution Petition filed by the petitioner strictly in accordance with fresh demarcation report dated 16.9.2015 and of course, after observing the principles of natural justice. An appropriate order shall be passed within a period of 3 months from the date of receipt of certified copy of this order.

(Surya Kant)
Judge

(P.B. Bajanthri)
Judge

December 21, 2015.
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