

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No.1829 of 2016

Date of decision: 11.03.2016

Sushma Sharma & others

.....Petitioners

Versus

Lachman Singh and others

.....Respondents

CORAM:- HON'BLE MR.JUSTICE DARSHAN SINGH

\* \* \*

Present: Mr. R.S. Mamli, Advocate for the petitioners.

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**Darshan Singh, J.**

1. The present revision petition has been preferred against the order dated 3.2.2016 passed by the learned Civil Judge (Junior Division), Gurgaon.

2. Learned counsel for the petitioners contended that the learned First Appellate Court has directed the learned trial Court to appoint the Local Commission to the rank of Tehsildar for demarcation of the disputed property. He contended that in compliance of that order, the Local Commission was appointed who visited the spot but no pucca point was available. So, demarcation was not possible. He contended that the learned trial Court has again appointed the Local Commission to carry out the demarcation of the suit property which is illegal. He further contended that the petitioners should not be made liable to bear the expenses. Thus, he contended that the impugned order is not sustainable.

3. I have duly considered the aforesaid contentions.

4. The perusal of the impugned order shows that the learned First Appellate Court while remanding the case has directed the trial Court to appoint another Local Commission to the rank of Tehsildar to demarcate the disputed property and to submit his report with respect to the encroachment. The trial Court was directed to decide the case on the basis of the fresh report of the Local Commission. In compliance of that, the trial Court has appointed the Local Commission but the Local Commission has reported that the demarcation was not possible through Jarib etc. and it was reported that the suit property can be demarcated through Digital Global Positioning System and the report was submitted to the trial Court without making any report with respect to the demarcation. In these circumstances, the learned trial Court has appointed Tehsildar as the Local Commission to demarcate the disputed property through Digital Global Positioning System and to submit the report. As the direction of the trial Court to demarcate the suit property could not be carried out through conservative mode of Jarib etc., there was no option left with the trial Court to direct the Local Commissioner to carry out the demarcation with the Digital Global Positioning System.

5. As per the observations of the First Appellate Court while remanding the case, the demarcation of the suit property was essential to determine the extent of the area under individual encroachment of the defendants. So, there is nothing wrong in the appointment of the Tehsildar as a Local Commission by the learned trial Court to carry out demarcation

with the help of the Digital Global Positioning System. It is not disputed that the present petitioners were the appellants before the learned First Appellate Court and on their appeal, the case has been remanded to the trial Court with a direction to appoint the Local Commission for demarcation of the suit property. So, there is nothing wrong in the direction of the trial Court to the parties to share the expenditure in respect of Digital Global Positioning System and the fees of the Local Commission as well as the Draftsman.

6. Consequently, the impugned order does not suffer from any illegality calling for any interference by this Court.

7. Thus, the present appeal is without any merit and the same is hereby dismissed.

**March 11, 2016**  
*ps*

**(DARSHAN SINGH)**  
**JUDGE**