

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

C.R. No.2444 of 2016

Date of Decision.05.04.2016

Palsa @ Satyapal

.....Petitioner

Vs.

Shri Bhagwan and others

.....Respondents

Present: Mr. Sandeep Lather, Advocate
for the petitioner.

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?

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K. KANNAN J. (ORAL)

1. The revision petition is against the order of the Executing Court directing the removal of portion of construction identified in the report of the commissioner and coloured in green. There has been a decree for injunction in favour of the plaintiff from putting up any further construction in the suit property comprised in Khasra No.237 and 239 and admittedly, the defendant is in possession of the property in khasra No.237. The construction referred already in the written statement is the construction made even prior to his purchase that consisted of two rooms and varandah. The construction in the said portion is identified by the commissioner as existing within AGIF and denoted in green colour. The commissioner has noticed that the construction north of the same denoted in yellow has been new and he has also identified that there were bricks stored at point 'P' and point 'N' in the report. He has also found that the new construction has not even been plastered and the door that has been fixed at point 'O' would seem to be new construction to the old construction

which lies within the construction in AGIF. The commissioner has given his report stating that the 4th defendant was also present but refused to sign the memo of presence of parties. There is no objection taken to the commissioner's report and when plea was made by the respondent that the commissioner's report had been drawn in his absence and behind the back, the Court below has observed that he has not even filed any objection to the commissioner's report where he has specifically noted that the defendant refused to sign in the memo of presence of parties. The Court has also made observations on the basis of evidence given that the portion denoted in yellow seems new and since there is decree for injunction restraining any further construction to be made, any construction made must be taken as having been brought about in disobedience of the order of injunction and therefore, directed the removal of such construction.

2. The counsel for the petitioner relies on a judgment of this Court in *Ram Murti Goyal, Advocate and others Vs. Smt. Basant Kaur and others 1991(2) PLR 54* that the local commissioner must have been examined and reliance on the report was without basis. The judgment is not applicable in a situation where there had been no objection to the local commissioner's report. The objection of non-examination of the commissioner is, therefore, rejected.

3. The order passed by the Court below is well reasoned and I do not find any reason to interfere with the same. The revision petition is dismissed.

(K. KANNAN)
JUDGE

April 05, 2016
Pankaj*