

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CR No.4305 of 2010
Date of decision : 15.11.2016

Balbir Singh

...Petitioner

Versus

Gurbachan Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

Present: Mr. Tribhawan Singla, Advocate for the petitioner.

Mr. Ramesh Sharma, Advocate for the respondent Nos.1 and 3.

AMIT RAWAL, J. (Oral)

This revision petition has been listed for service upon LR's of
Chhinda-respondent No.2.

On request of both the learned counsels, present revision
petition is taken on board.

The decree dated 22.07.1998 in Civil Suit No.300 of 1993 titled
as Balbir Singh Vs. Nazar and others, was passed against the Nazar Singh
and Surinder Pal Singh.

Mr. Tribhawan Singla, learned counsel submits that
aforementioned decree had enjoined the defendants from forcible
dispossession and interference in respect of land measuring 13 kanals 4

marlas. However, there was breach of the aforementioned decree resulting into filing of the execution application bearing No.25 of 2006 dated 23.11.2005 but same has erroneously been dismissed vide impugned order dated 01.06.2010 (Annexure P-2).

He further submits that though before the courts below, the issues were framed and evidence was led and it was sufficient to form the opinion regarding the plea. However, this Court vide order dated 03.11.2015 had appointed Kanungo, Tehsil Nakodar, District Jalandhar to carry out the demarcation of the suit land and submit its report. As per report, it has been stated that there has been encroachment in respect of 1 marla 14 square feet by Surinder Singh son of Rakha Ram, 3 marla 63 square feet by Gurbachan Singh son of Najjar Singh and another 3 marla 63 square feet by Mahinder Pal son of Najjar Singh, and by some other two other persons also and thus urges this Court for setting aside of the order under challenge.

Mr. Ramesh Sharma, learned counsel appearing on behalf of Judgment Debtor namely Gurbachan Singh and Surinder Pal submits that Kanungo had not conducted the demarcation of the entire land but of a piece of land measuring 4 kanals 11 marlas thus, the alleged encroachment is on the basis of surmises and conjectures. Objection in this regard had already been filed and thus urges this Court for dismissal of the revision petition.

I have heard learned counsel for parties and appraised the paper book and of the view that instead of pondering upon issue with regard to the report of Kanungo, I deem it appropriate to set aside the impugned order and remand the matter back along with the report of Kanungo, with liberty to

parties to lead evidence with regard to report of Kanungo or against the same to determine the actual breach, if any, of the judgment and decree aforementioned. Let this exercise be done within a period of 10 months.

Impugned order is set aside.

Revision petition is allowed in aforementioned terms.

15.11.2016

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**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No