

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.5878 of 2015
Date of Decision: April 21st, 2016

Dharm Pal & others

...Petitioners

Versus

Sunehara

...Respondent

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

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?

Present: Mr.S.D.Bansal, Advocate,
for the petitioners.

Mr.R.N.Lohan, Advocate,
for the respondent.

AMIT RAWAL, J. (Oral)

The petitioner-decree holders are aggrieved of the order, whereby the report of the Local Commissioner has been set-aside for want of site plan and the parties have been directed to have an amicable settlement regarding the mode of partition, failing which the property shall be put to auction.

Mr.S.D.Bansal, learned counsel appearing on behalf of the petitioner-plaintiffs submits that the Local Commissioner was not a revenue expert, much less a surveyor, but an Advocate, who did not know the intricacies vis-a-vis the measurement and mode of partition. In case the revenue official is appointed, the matter can be sorted out.

Mr.R.N.Lohan, learned counsel appearing on behalf of the respondent-defendant submits that per-pleaded case of the petitioner-

plaintiffs is that the property is joint, therefore, they cannot take the plea of exclusive possession and suggest that the Local Commissioner should ascertain the respective possessions and thereafter suggest mode of partition. Instead, the entire property including the constructed and vacant area should be perused and the mode of partition be suggested thereafter.

I have heard the learned counsel for the parties and appraised the paper book and of the view that it would be just and equitable, much less appropriate to direct the trial Court to appoint a revenue official of the rank of Kanungo of the concerned area to demarcate the property and ascertain the possession and as well as prepare a site plan and suggest the Court the manner and mode, by which the final decree can be drawn on the basis of the preliminary decree. Ordered accordingly.

Keeping in view the aforementioned facts and circumstances, the impugned order is set-aside and the matter is remitted back to the trial Court with the aforementioned directions.

Let this exercise be done as expeditiously as possible.

It is made clear that the trial Court shall consider the factum of notice in the order that at the time of inspection, the Kanungo shall issue notice to both the parties.

Revision petition stands disposed of.

April 21st, 2016
ramesh

(AMIT RAWAL)
JUDGE