

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

**CR No.6748 of 2015
Decided on: 04.05.2016**

Birbal Dass

....Petitioner

Versus

Municipal Council Maur Mandi and another

....Respondents

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Mr. Deepak Aggarwal, Advocate
for the petitioner.

Mr. Sandeep Saini, Advocate
for respondent No.1.

REKHA MITTAL, J.

The present petition has been directed against order dated 11.08.2015 (Annexure P-7) passed by the Additional Civil Judge (Senior Division), Talwandi Sabo, whereby application filed by the petitioner/plaintiff for directing the revenue official to submit the demarcation report after correcting *tatima* has been dismissed.

Counsel for the petitioner would contend that the petitioner has filed a suit for permanent injunction restraining the respondent/defendant from making any construction over the land/property of the plaintiffs comprised in Khasra No.1//12/3/2/1 (0-8) situated withing the revenue limits of village Maur Khurd, Tehsil Maur, District Bathinda as per *Jamabandi* for the year 2011-12. It is further submitted that the respondent-Municipal Council, Maur Mandi (in short 'the Council') also filed a suit for injunction in respect of land/pahi

measuring 01 kanal 01 marla comprising in Khasra No.1//12/2. In the suit filed by the Council, an application was filed by the defendants namely Birbal Dass and Ganesh Gee son of Birbal Dass for demarcation of land measuring 00 kanal 08 marla claimed to be owned by the defendants in both the suits. It is further submitted that a demarcation report was submitted by the concerned revenue official with the observations that demarcation of Khasra No.1//12/3/2/1 cannot be conducted and there may be some mistake in the mutation requiring its *tatima*. It is urged that in view of the demarcation report submitted by the concerned revenue official, the petitioner filed an application for issuance of direction to the revenue official to prepare the *tatima* and thereafter, submit the report on the basis of demarcation but the same has been wrongly and illegally dismissed by the trial Court.

Counsel for the respondent, on the contrary, has supported the impugned order with the submissions that no such dispute with regard to any error is subject-matter of litigation before the trial Court, therefore, the petitioner cannot be allowed to use process of the Court for any such direction that may be decided in separate appropriate proceedings.

I have heard counsel for the parties, perused the records but find no merit in the petition.

The learned trial Court in the concluding Para of the impugned order has noticed, quoted hereinbelow:-

“3. This Court has further observed that it is the job of the revenue department to correct the tatima and other revenue record and in case plaintiffs were aggrieved they should have got the tatima corrected by now because the

Kanugo has reported on 12.9.2014 regarding incorrect tatima and by now plaintiffs had sufficient time and had ample opportunities to get the tatima corrected but plaintiffs have failed to do so. This Court has further observed that the present suit is simple suit for permanent injunction only and no title or right of plaintiffs and defendant is to be adjudicated and therefore, this Court does not find any reasonable ground to direct the Kanugo to get first tatima corrected and then submit the demarcation report. Hence, the application being without merit, stands dismissed. Stay application has already been disposed of. Now to come up on 10.9.2015 for evidence of the plaintiffs.”

The observations extracted above when examined in the light of allegations set-up in the plaint and the relief claimed in the suit, I do not find any error much less illegality in the impugned order warranting intervention.

In view of what has been discussed hereinabove, finding no merit, the petition is dismissed. However, the petitioner shall be at liberty to take recourse to appropriate remedy, available in law, for seeking necessary correction.

04.05.2016
yakub

(REKHA MITTAL)
JUDGE