

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

**CR No.7367 of 2013 (O&M)
Decided on: 16.05.2016**

Harvinderpal Singh

....Petitioner

Versus

Dr. Jatinder Kumar Narula

....Respondent

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Mr. D.S. Gurna, Advocate for the petitioner.

Mr. K.S. Chahat, Advocate for the respondent.

REKHA MITTAL, J.

The present petition has been directed against order dated 26.08.2013 passed by the Civil Judge (Sr. Division), Patiala, whereby application of the petitioner for appointment of a revenue official as a Local Commissioner to demarcate the property in dispute has been dismissed.

Counsel for the petitioner would contend that respondent No.1 along with Jatinder Kumar Narula, his brother filed a suit for possession of land measuring 152 sq. yds. i.e. 02 biswas out of Khasra No.203 and the suit was decreed by the trial Court vide judgment and decree dated 20.11.2001. Dr. Jatinder Kumar Narula has filed an application for execution of the decree passed by the trial Court. It is further argued that as the total area of Khasra No.203 is more than 02 bighas and the decree has been passed only *qua* 02 biswas out of the said khasra number, it is in the fitness of things that Khasra No.203 is demarcated by a revenue official and only thereafter, warrants of

possession in execution of the decree can be issued. It is urged that the Executing Court has committed a serious error rather illegality in dismissing the application for appointment of Local Commission.

Counsel for the respondent/decreed-holder has supported the impugned order with the submission that the application filed by the petitioner is a clever device to prolong finalization of the execution proceedings and deprive the decree-holder of fruits of the decree that has attained finality between the parties.

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

Perusal of the judgment and decree passed by the learned trial Court would make it evident that the decree-holders/plaintiffs filed the suit for possession in regard to 152 sq. yds. of land (91 ft. x 15 ft.) i.e. 02 biswas out of Khasra No.203 that has been depicted in the site plan attached with the plaint situated in Village Lehal, Tehsil and District Patiala. Any dispute with regard to identity of the suit property was required to be raised by the petitioner during trial. As suit of the respondent/decreed-holder *qua* the suit property has been decreed, no fault can be found in the order impugned dismissing application for demarcation of Khasra No.203. However, the Executing Court is directed to ensure that possession of 152 sq. yds. area is delivered to the decree-holder(s) in strict conformity with the site plan appended with the plaint.

16.05.2016
yakub

(REKHA MITTAL)
JUDGE