

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

RSA No.1197 of 2016 (O&M)

Date of decision:18.03.2016

Satyawan @ Billu

... Appellant

Vs.

Diwana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. Harish Nain, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

The appellant-defendant is aggrieved of the concurrent findings of fact and law, whereby, the suit for possession has been decreed.

Mr. Harish Nain, learned counsel appearing on behalf of the appellant-defendant submits that in the written statement, specific objection was taken that demarcation was done at the back of the appellant-defendant, inasmuch as that Halqa Kanungo had not issued any notice. This fact has been brought to the notice of the Lower Appellate Court but yet the Courts below failed to notice the aforementioned fact. Demarcation report is not in conformity to High Court Rules and Orders, therefore, the impugned judgment and decree are not sustainable in the eyes of law as the suit for

possession is based upon the demarcation report. Having failed to discharge the burden, the Court below ought not to have decreed the suit, he, thus, urges this Court to formulate the substantial questions of law as culled out in the grounds of appeal. In support of his contention, relied upon the judgment of this Court in **Mahabir and another vs. Surta and others 2006(2) R.C.R.(Civil) 153**.

I have heard learned counsel for the appellant-defendant and appraised the judgments and decrees of the Courts below and of the view that such plea is not sustainable in the eyes of law as on going through the demarcation report, it has surfaced that demarcation was done in the presence of the appellant-Satyawan. Even demarcation report reveals the placing of pucca points of the property alleged to be in illegal possession of the appellant-defendant. However, there is no dispute with regard to the ratio decidendi culled out by this Court in Mahabir's case (supra) that where defendant is not associated in the demarcation proceedings, report is not to be accepted, but on going through the copy of the report of Halqa Kanungo, presence of the appellant has been marked when the inspection/demarcation was done on 22.03.2010.

In view of the aforementioned observations, I do not intend to differ with the findings rendered by both the Courts below, based upon the appreciation of oral and documentary evidence, much less, no substantial question of law arises for determination of this Court.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

March 18, 2016
savita