

In the High Court of Punjab and Haryana at Chandigarh

**Civil Revision No. 1520 of 2014 (O&M)
Date of Decision: 13.7.2017**

Nachattar Singh

.....Petitioner

Versus

Ram Singh and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. M.K.Singla, Advocate
for the petitioner.

Mr. Abhishek Goyal, Advocate
for respondent No. 1.

ANITA CHAUDHRY, J

This revision has been filed under Article 227 of the Constitution of India challenging the order dated 31.1.2014 passed by the Additional Civil Judge (Senior Division), Sangrur who dismissed the objections filed to the report of the local commissioner.

The plaintiff filed a suit seeking possession of the area encroached upon by the defendants. The plaintiff is a co-sharer in the khasra numbers which fall in village Bhatiwal Khurd in District Sangrur. His land adjoins the land of the defendants who are the residents of village Naraingarh. The allegations were that the defendants had forcibly entered and taken possession of their land sometime in May 2008. The plaintiff filed an application before the revenue officer for demarcation and it was reported that the property had been encroached. He then filed a suit seeking possession.

The defendants in their reply pleaded that the land of the

plaintiff was in village Bhatiwal Khurd while their land was in village

Naraingarh and they had nothing to do with the land of the plaintiff. With respect to the demarcation report appended with the plaint, it was pleaded that the report was wrong on facts and prepared at the instance of the plaintiff and in their absence.

The plaintiff approached the Court seeking appointment of a Local Commissioner as the dispute was regarding demarcation. Copy of the application and the reply is available, however, the site plan had not been placed on file despite direction. It is not in dispute that a local commissioner was appointed and report Annexure P-5 was given. The demarcation was effected in the presence of the defendants. Two months later, they filed objections to the report of the Local Commissioner. The trial Court elaborately dealt with all the issues raised therein and the objections were dismissed.

Aggrieved by the dismissal of the objections, this petition has been filed under Article 227 of the Constitution of India.

Counsel for the petitioner submits that the Patwari of their village had not been called and no pucca points were fixed and without the pucca points demarcation could not have been done. The counsel was again asked to give the site plan that was prepared by the Local Commissioner. The counsel expressed his inability and states that he had asked the petitioner but the same had not been provided to him.

Counsel for respondent No. 1 submits that the evidence is over and the case is fixed for rebuttal and arguments and the demarcation was effected in the presence of the parties and there were no pucca points and, therefore, the common boundary of the two villages was taken as correct

report. He further urges that the demarcation had also been done from the village Naraingarh side also and encroachment was found.

Counsel for the petitioner in reply submits that there was an adjoining canal near the land in dispute and that should have been taken as a point for starting the demarcation and this objection was taken by them.

A perusal of the record shows that the case had been adjourned a number of times to enable the petitioner to place on record the copy of the site plan which had been prepared by the Local Commissioner. The order was passed firstly on 29.2.2016. On the adjourned hearing, petitioner failed to appear. Even till today the site plan has not been given. It would be useful to refer to the report which is available at page 21 and it reads as under:-

“Today, as per the orders of Hon'ble Sh. Gurmeet Tiwana Addl. Civil Judge (Sr. Div.) Sangrur, reached at the spot, village Bhatiwal Khurd, as local commissioner, for doing demarcation, Patwari Halqa Bhatiwal Kalan and Bassi Arakh met at the spot alongwith record and demarcation equipments. Patwari Halqa has already bound down the parties to remain present at the spot. Information chart is attached. Parties and other respectable persons, came present at the spot. Attendance report is attached. In the presence of the present persons, record perused and Zarib has been corrected with Fitta Steel and all admitted the same correct. Inquiry was conducted from the persons present there regarding Burjies (Mark) of consolidation, standing near the khasra nos. in dispute and they told that no such Burjies are there. They told

that common Wat (boundary line) of two owners, which have been mentioned as point A and B in the map (verified Wats) of consolidation are correct. By admitting these points as to be correct and as per the rules and with the help of necessary equipments i.e. Zarib, Suae, Flags, Latha, Field Book and by doing demarcation of Khasra No. 53//4-8, marks were put. On completion of the demarcation, it has been found that Khasra No. 53//4 min East, 2 K – 2M area has been mixed up by Nachattar Singh s/o Saun Singh, Baljit Singh s/o Surjit Singh rs/o village Bhatiwal Kalan, in their Khasra No. 7//4 village Naraingarh and 2 K – 0 M area of khasra No. 53//8 min has been mixed up by Sukhdev Singh s/o Jangir Singh r/o Naraingarh, in his khasra No. 7//7 situated at village Naraingarh.

The above said area is at the boundary of village Bhatiwal Khurd and village Naraingarh and therefore, as per rules khasra No. 7//4-7 of other village Naraingarh is also liable to be verified, whose western sides have common Wats (boundary line) with khasra No. 53//4-8, village Bhatiwal Khurd. Persons present at the spot told that Pakka Burjies of consolidation, in village Naraingarh are there on the Eastern Southern corner of Khasra No. 7//25 and other on Eastern Northern corner of Khasra No. 6//5 and after considering the same as basis, Khasra No. 7//4-7 situated at village Naraingarh has been formed (marked), as per rules with the necessary equipments of demarcation and marks were put.

After forming the same, it has been found that after completing the area of khasrra No. 7//4, its owners Nachattar Singh s/o Soun Singh and Balbir Singh s/o Surjit Singh have mixed up 1 K 3 M area of Khasra No. 53//4 min east village Bhatiwal Khurd and after completing area of 7//7 min, Sukhdev Singh s/o Jangir Singh owner has mixed area 1 K 1 M of Khasra No. 53//8 min east village Bhatiwal Khurd in their Khasra numbers. It is also brought in the notice of the Hon'ble Court that after forming the boundary of both villages i.e. village Bhatiwal Khurd and village Naraingarh, two karams demarcation have been found less, at the boundary. Therefore report is being presented. Naksha Twafat is attached”

The trial Court has dealt with the objections and found no reason to order further investigation. The record was available with the Local Commissioner. The Patwari was present and both the parties had agreed to the fixed point from where the demarcation had started. The Local Commissioner also measured the property from the side of village Naraingarh to verify facts. The lower Court had elaborately dealt with the objections and had rightly arrived at a conclusion that there was no merit in the objections. There is no reason to interfere with the order passed by the Court below.

The revision petition is dismissed.

(ANITA CHAUDHRY)
JUDGE

July 13, 2017

Gurpreet

Whether speaking/reasoned : Yes
Whether reportable : No