

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

CR No.1510 of 2017 (O&M).
Date of Decision: 02.03.2017.

Gurmeet Singh and others

....Petitioners.

VERSUS

Amandeep Singh and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. S.S. Ranghi, Advocate for the petitioners.

SNEH PRASHAR, J.

CM-4638-CII-2017

Allowed, as prayed for.

CR-1510-2017

The instant revision petition under Article 227 of the Constitution of India is directed against the order dated 07.11.2016 passed by learned Civil Judge (Junior Division), Ludhiana, vide which the application filed by the petitioners for appointment of Local Commission was dismissed.

The submissions made Mr. S.S. Ranghi, learned counsel representing the petitioners have been heard.

Learned counsel for the petitioners submits that in the civil suit

filed by the petitioners, they had claimed that they are owners in possession

of land measuring 3 Kanals 8 Marlas forming part of the suit property measuring 8 Kanals 8 Marlas. It was also their contention that respondents No.1 to 3, 11 and 12 had forcibly encroached upon the area fallen to their share. To ascertain the encroachment made by the said respondents, appointment of a revenue official as Local Commission was the only remedy and their application for the said purpose was erroneously dismissed by learned trial Court. To support his argument, learned counsel relied upon ***Achhar Chand vs. Hari Kishan (deceased) through LR & Ors., 2016(1) Civil Court Cases, 216.***

The facts in hand are completely distinguishable from the facts of **Achhar Chand**'s case (supra). Copy of the plaint has been annexed as Annexure-P1 with the instant petition. A perusal of the same shows that the petitioners have filed suit for separate possession by way of partition of the suit land by metes and bounds. Learned trial Court observed that the boundaries of the suit property are not in dispute between the parties and no relief has been claimed in that context. The controversy is with regard to possession over separate portions of the suit property. When the suit has been filed for partition by metes and bounds, it will be for the trial Court to partition the property as per shares of both the parties. In such circumstances, the question of encroachment on any portion by one party does not arise. If at all, it is found that a co-sharer is in possession of extra portion than his/her share, that will be taken care of by learned trial Court at the time of decision of the case. When the boundaries of the suit property were not in issue, there was indeed, no occasion for the trial Court to appoint a revenue official for demarcation of the property or of any portion

There being no illegality or perversity warranting interference in the order of learned trial Court, the petition is hereby dismissed.

(SNEH PRASHAR)
JUDGE

02.03.2017.
jitender sharma

Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No