

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

Civil Revision No. 2185 of 2017
Date of decision:- March 27, 2017

CHARAN SINGH

....PETITIONER..

VERSUS

DHARMINDER SINGH

....RESPONDENT..

CORAM:- HON'BLE MR. JUSTICE JASPAL SINGH

Present:- Mr. Ramneek Vasudeva, Advocate,
for the petitioner.

JASPAL SINGH, J.

The instant civil revision petition has been preferred under Article 227 of the Constitution of India against the order dated 27.04.2016 passed by Id. Civil Judge (Junior Division), Rupnagar whereby application filed by the petitioner-defendant for appointment of Local Commissioner for demarcating the land in suit has been dismissed.

2. The contention of learned counsel for the petitioner is that earlier demarcation of the land conducted by the revenue authorities on 14.05.2013 is wrong and is not in consonance with the rules laid down in the Punjab and Haryana Rules and Orders as well as instructions issued by the State of Punjab from time to time. The said demarcation was not conducted from any pucca point or pillar. The land in suit abuts on the boundary line of two villages and the demarcation was not conducted properly before

submission of report dated 14.05.2013. Thus, for the removal of controversy, conducting of fresh demarcation is essential, since, valuable rights of the parties are involved in the suit property.

3. At the time of passing impugned order, Id trial court did not take into consideration the aforesaid aspect of the case and has simply dismissed the application on the ground that demarcation has already been conducted and the copy of demarcation report Ex.P2 has already tendered in evidence by Shivdesh Singh-PW1, that too, without any objection from the other side. Thus, the impugned order is not sustainable in the eyes of law and it deserves to be set aside by way of acceptance of instant petition.

4. This Court has given a deep thought to the submissions made by learned counsel for the petitioner but does not find any legal and factual weight therein.

5. It would be appropriate to mention here that the instant revision petition is not maintainable. By now, it is well settled proposition of law that against the order of refusing the appointment of local commissioner, no revision either under Section 115 CPC or under Article 227 of the Constitution of India is maintainable. To fortify this observation, we can have the reference of the judgments delivered in cases captioned as ***“Harvinder Kaur and another vs. Godha Ram and another”***1979 AIR (Punjab) 76, ***“Pritam Singh and another vs. Sunder Lal and ors”*** 1990(2) PLR 191 and ***“Sham Lal vs. Sumitra Devi, 2016(3) PLR 324”***.

6. Undoubtedly, demarcation was conducted on 14.05.2013, the copy of demarcation report has been tendered into evidence by Shivdesh Singh-PW-1 during the course of his evidence. The fact that the land of the

plaintiff-defendant is located on the boundary wall of 2 different villages, was in the knowledge of the parties to the lis as well as the revenue officials, who conducted the demarcation on 14.05.2013 and submitted its report. Moreover, the suit was listed for evidence but the petitioner did not examine any witness and moved the application for the appointment of fresh local commissioner, when a demarcation report is already on record. The trial court has rightly concluded that there is no requirement of getting the fresh demarcation conducted by the appointment of local commissioner. Thus, the impugned order does not suffer from any material illegality or infirmity. If at all the petitioner is aggrieved of the demarcation report Ex.P2, he can summon the officer concerned, who conducted the demarcation and submitted the report, for the purposes of his cross-examination and for elucidation of the report.

7. In the light of what has been discussed above, this Court does not find any merit in the instant petition. As such, it stands dismissed.

8. No order as to costs.

March 27, 2017
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No