

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

CR No.3103 of 2017 (O&M).

Date of Decision: 01.05.2017.

Krishna Rani (since deceased) through her L.R. Lali Dhawan @ Lalit Kumar and another

....Petitioners.

VERSUS

Sat Pal (since deceased) through his L.R. Rash Pal Kaur and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Saurabh Garg, Advocate for the petitioners.

SNEH PRASHAR, J.

CM-9526-CII-2017

Allowed, as prayed for.

CR-3103-2017

Assailing the order dated 30.03.2017 passed by learned Civil Judge (Junior Division), Pehowa by virtue of which the application of the respondent-plaintiff seeking appointment of local commission was allowed, the instant revision petition under Article 227 of the Constitution of India has been filed.

The submissions made by Mr. Saurabh Garg, learned counsel representing the petitioners have been considered.

Learned counsel for the petitioners contends that the

respondent-plaintiff had filed a suit for possession raising averment that prior to the filing of the suit, he had got demarcated the suit property from Tehsildar Pehowa. In his report dated 22.08.2010, the Tehsildar had stated that defendants No.4 to 7 have encroached upon land measuring 15 Marla 3 biswasi comprised in Khasra No.35/2. The suit is being contested by the petitioners (L.Rs. of defendants No.1 and 3). During the course of evidence, respondent-plaintiff filed a fresh application for appointment of local commission for demarcation of land comprised in Khasra No.35/2 of Rect. No.70 and learned trial Court appointed Field Kanungo as local commission for demarcation of the suit land. Learned counsel asserts that the order is illegal and liable to be set aside as learned trial Court cannot appoint a local commission for collecting evidence for one party and can also not delegate its power to adjudicate the matter in question. It is on the basis of the evidence led by both the parties that learned trial Court has to decide whether there is any encroachment on the land of the respondent-plaintiff or not.

There is absolutely no force in the argument of learned counsel for the petitioners. As reflected by learned trial Court in the impugned order, the dispute between the parties is regarding a portion of land which according to the respondent-plaintiff is part of Khasra No.35/2, Rect. No.70 whereas the contention of the petitioners-defendants is that the revenue numbers and the description of the suit land has been wrongly given by the respondent-plaintiff. In such set of facts, the appropriate course is to get the suit land demarcated by a revenue officer. The earlier demarcation report, based on which the respondent-plaintiff has filed the suit, is of no consequence when the petitioners are admittedly disputing the same.

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

(SNEH PRASHAR)
JUDGE

01.05.2017.
jitender sharma(r)

Whether speaking/ reasoned : **Yes/ No**

Whether Reportable : **Yes/ No**