

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

Civil Revision No.8053 of 2016 (O&M)
Date of decision: March 08, 2017

Balvir Kaur and another ...Petitioners

Versus

Najar Singh & others ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Naresh Sharma, Advocate for the petitioners.

Rajan Gupta, J.

Present revision is directed against the order dated 17.09.2016, passed by Civil Judge (Junior Division), Khanna, whereby application for demarcation of the suit property filed by the petitioners/defendants No.1 & 2, has been rejected.

Learned counsel for the petitioner has assailed the order. He submits that plaintiffs have filed the suit on the basis of wrong revenue record and without demarcating the property in dispute by some revenue officer, the matter cannot be adjudicated upon properly.

I have heard learned counsel for the petitioners and given careful thought to the facts of the case.

It appears, plaintiff/respondents No.1 to 3 filed a suit for separate possession by way of partition of the suit property i.e. land as detailed in the plaint. Suit was filed on 01.12.2014. Same was contested by defendants. During pendency of suit, petitioners/defendants No.1 & 2

filed instant application to appoint some revenue officer to demarcate the suit property, on the ground that after deducting the acquired property by the Government, plaintiffs did not have any share in Khasra Nos.5/2 and 5/3 and their remaining share falls in Khasra Nos.21/1 and 24/1. Trial court rejected the prayer observing that onus to prove the suit property lies upon the plaintiffs, therefore, defendants cannot insist for appointment of local commissioner for demarcating the property at this stage. I find no legal infirmity with the order. It is evident that first a preliminary decree has to be passed by the court below, wherein shares of the parties will be carved out and thus, demarcation of the suit property is not required at this stage. I find no merit in the present revision petition. Same is hereby dismissed.

March 08, 2017
'Rajpal'

(RAJAN GUPTA)
JUDGE

Whether speaking / reasoned

Whether Reportable:

Yes / No

Yes / No