

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

Civil Revision No.8774 of 2016

Date of decision:- January 11, 2017

NANAK CHAND AND OTHERS

....PETITIONERS..

VS.

MAHENDER AND OTHERS

....RESPONDENTS..

CORAM:- HON'BLE MR. JUSTICE JASPAL SINGH

Present:- Mr. G.C. Shahpuri, Advocate,
for the petitioners.

JASPAL SINGH, J.

Through instant civil revision petition preferred under Article 227 of the Constitution of India, the petitioner has sought setting aside of order dated 14.12.2016 passed by Civil Judge, Junior Division, Faridabad vide which the application filed by the respondents for demarcation of disputed property bearing Bhakhal No. 137, House No. 829, situated within abadi of village Heerapur has been allowed and Naib Tehsildar, Ballabgarh has been appointed as Local Commissioner with direction to demarcate the said property.

2. The only contention put forth by learned counsel for the petitioner is that the ld. trial court has committed a grave error while allowing the application for appointment of Local Commissioner and for demarcation of the property in question, which, in fact, cannot be carried out in the densely populated area which has gone tremendous changes during the last more than 200 years when the consolidation proceedings had

taken place several times. None of the numbers so mentioned in the suit exist at the spot as every time new numbers are allocated.

3. Further, the trial court has failed to appreciate the fact that the application for Local Commissioner has been filed by the respondents-plaintiffs in order to create evidence in their favour, which is not permissible under law. The respondents-plaintiffs have to prove their own case on the basis of pleadings and evidence. Thus, the impugned order dated 14.12.2016 is not sustainable in the eyes of law and is liable to be set aside.

4. Learned counsel for the petitioner has also referred to the observations made by Full Bench of this Court in case captioned as ***“Parkash Singh and others vs. Joint Development Commissioner Punjab and others”***, 2014 (2) RCR (Civil) 721 to fortify his contentions.

5. This Court has given an anxious thought to the aforesaid submissions made by learned counsel for the petitioner but finds the same to be without any legal and factual substance.

6. As far as the judgement referred to above relied upon by learned counsel for the petitioner is concerned, there is no dispute with regard to the observations made therein but nowhere it depicts or provides that no Local Commissioner can be appointed for the demarcation of the property, which is situated either in the Abadi deh or adjoining to it.

7. Adverting to the facts and circumstances of the case in hand, the main contention of learned counsel for the petitioner is that the demarcation of the suit property is not possible as the number allotted to it by the revenue authorities in the year 1866-67 has changed in subsequent settlements and consolidation proceedings but there is nothing on the record

to suggest that any consolidation proceedings has taken place after 1866-67. Otherwise also, the consolidation and settlements, if any, were done in respect of the land situated outside Abadi deh, the demarcation of the suit property is essential for the proper adjudication of the matter in controversy between the parties. Moreover, as is evident from the impugned order, some record was summoned including *Aksajra Khasra Pamaish abadi* within limits of which, the suit property is situated. The availability of the aforesaid record is suggestive of the fact that the suit property can be identified and demarcated in view of the facts appearing in the above referred record especially in the circumstances that there is no change in the record. Even, if it is more than 15 decades, the petitioner is not going to suffer any irreparable loss or is not likely to prejudice, in case, the demarcation is conducted by the revenue authorities in accordance with records available. Rather, it would clinch the matter in controversy.

8. Taking into consideration the aforesaid aspect of the case, this Court does not find any merit in the instant petition. Accordingly, instant petition stands dismissed.

January 11, 2017

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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned: Yes

Whether reportable: Yes