

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.1603 of 2016 (O&M)
Date of Order:17.01.2018

Avtar Singh

..Petitioner

Versus

Harnek Singh (since deceased) through LRs and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sandeep K. Sharma, Advocate,
for the petitioner.

Ms. Rahish Pahwa, Advocate,
for the respondents.

ANIL KSHETARPAL, J (Oral)

Defendant no.1-petitioner is in revision petition against the order passed by the learned trial Court directing draftsman Budh Singh Grewal to enter in the house in dispute for the purpose of preparing a site plan with correct dimensions.

Plaintiffs-respondents had filed a suit for possession on the basis of a lay out plan attached with the plaint wherein property in dispute was marked as ABCD. Plaintiffs are claiming possession on the basis of their title.

Defendants contested the suit. During the course of evidence, plaintiffs produced a lay out plan which is available at page 50 of the paper book and examined Mahesh Kumar, a draftsman, who had prepared the lay out plan after demarcation.

Objection of learned counsel for the petitioner is that the directions of Court directing Local Commissioner to enter into the house

and carry out demarcation are wrong because the dispute in the present case is not with respect to what has been constructed inside the house. He submits that the dispute in the present case is whether the plaintiffs are entitled to possession of the property in dispute or not?

In response thereto, learned counsel for the plaintiffs-respondents has pointed out that in paragraph 3 of the plaint, it was specifically mentioned that the plaintiffs could not get prepared the site plan with correct dimensions of the suit property as the defendant Avtar Singh did not allow them to enter inside the house.

Since the property as a whole is in dispute, therefore, Local Commissioner is not required to enter the suit premises which is an inhabited residential house. He can carry out the demarcation from the outside of the house in dispute and submit a report to the Court about correct demarcation of the suit property.

In these circumstances, order passed by the learned trial Court is modified and the revision petition is partly allowed. The Local Commissioner would be permitted to carry out demarcation from outside the house.

January 17, 2018
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No