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

**CR No.1267 of 2018
Date of Decision: 17.12.2018**

Suresh and others

Petitioners

Versus

Rajender and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Ankush Chowdhary, Advocate
for the petitioners.

AVNEESH JHINGAN, J (Oral):

The present civil revision petition has been filed by the petitioners/defendants No.1 to 3 [hereinafter referred to as 'petitioners'], being aggrieved of the order dated 04.08.2017 passed by the Additional Civil Judge (Sr. Division), Gurugram [hereinafter referred to as 'trial Court'] dismissing the application of the petitioners for appointing *Halqa Patwari* as the Local Commissioner for demarcating Khasra No.2317.

2. The brief facts of the case are that the descendants of Bani Singh are the co-owners in joint possession of residential land comprising in Khasra No.2317 to 2320, situated within the extended abadi of village Shikopur, Tehsil Sohna, District Gurugram. The

parties have earlier also faced various rounds of litigations with regard to partition for *rasta* for ingress of the property. Respondents no.1 to 3/ plaintiffs [hereinafter referred to as 'plaintiffs'] filed a suit for permanent injunction restraining the petitioners as well as defendants No.4 to 6 from causing any interference in use of the passage marked as 'A' 'B' 'C' 'D' in site plan (Annexure-A). The pleadings were completed. The Local Commissioner was appointed who submitted his report to the learned trial Court. Meanwhile, the petitioners filed an application for demarcating Khasra No.2317 by *Halqa Patwari* and to produce the ownership documents of this *khasra*.

3. The said application was dismissed, hence the present petition.

4. Learned counsel for the petitioners contends that in the impugned order, the learned trial Court has wrongly stated that the petitioners have admitted the site plan set by the plaintiffs and had admitted the situation in which the party to the suit are placed at the spot.

5. Learned counsel relied on paragraph 2 of the written statement to state that the plaintiffs had not given a true picture in the site plan (Annexure-A) as the plaintiffs and defendant No.6 have occupied more than their claimed share. He submits that the impugned order is liable to be set aside on this ground alone.

6. The contentions raised by learned counsel for the petitioners lacks merit. From the perusal of the suit, it is evident that

the suit is with regard to *rasta* marked 'A' 'B' 'C' 'D' in the site plan. In the written statement, the petitioners have nowhere denied the existence of the said *rasta*. The paragraph relied upon by learned counsel for the petitioners is only with regard to the fact that the site plan is not accurate as it does not show that the plaintiffs and defendant No.6 were in possession of more share than they were entitled to.

7. It cannot be opined that the learned trial Court has recorded the admission of the petitioners with regard to the site plan. The observation made while disposing of the application is *vis-a-vis* the *lis* of the suit i.e. *rasta*. In order to have the ground reality, the Local Commissioner was appointed and he had placed on record his report. There was no occasion for demarcation of Khasra No.2317 by the *Halqa Patwari*.

8. No interference is called for in the impugned order, the civil revision petition is dismissed.

[AVNEESH JHINGAN]
JUDGE

December 17th, 2018
pankaj baweja

1. Whether speaking/ reasoned	:	Yes/ No
2. Whether reportable	:	Yes/ No