

Sr.no.116

IN THE HIGH COURT OF PUNJAB AND HARYANA CHANDIGARH

CR NO.1319-2018(O&M)

Date of Decision: 23.02.2018

Police Station Kanina

.....Petitioner

versus

Narender and others

.....Respondents

CORAM HON'BLE MR. JUSTICE KULDIP SINGH

Present Mr.Mukesh Yadav, Advocate for the petitioner.

- 1. Whether the reporters of the local newspaper may be allowed to see the judgment?*
- 2. To be referred to the reporter or not?*
- 3. Whether the judgment should be reported in Digest?*

KULDIP SINGH, J (ORAL)

Impugned in the present revision is the order dated 21.12.2017 (Annexure P-2) passed by learned Additional Civil Judge (Sr.Divn.), Kanina, vide which in the execution proceedings Judgment Debtor was directed to demolish the encroachment and hand over the same to Decree Holder as per law.

The case was fixed for 29.01.2018 for removing the encroachment and handing over the same to Decree Holder. As per the judgment and decree dated 15.10.2013, passed by Civil Judge (Jr.Division) Mohindergarh which was upheld in appeal, the defendants were restrained from interfering in the suit property of the plaintiff. It was further ordered that if they raise any construction or encroachment upon the suit property after filing of the suit that will be demolished and the suit property be restored to its original position. In the said civil suit, Judgment Debtor no.3 was also party. In the execution filed by the Decree Holder / plaintiff it

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comes out that Judgment Debtor no.3 / Station House Officer filed the objections in which he stated that demarcation was not conducted in his presence. The demarcation was conducted by computerized machine which could not be so done and could only be done by searching three pucca points in presence of the Judgment Debtor no.3. Report has been brought on record by Decree Holder in collusion with Girdawar and machine operator and the demarcation report is liable to be discarded. So, it comes to show that before ordering the demolition of encroachment, the demarcation was got conducted. Judgment Debtor no.3 is the Station house Officer, Police Station Kanina. It cannot be said that Judgment Debtor no.3 is the would not have been present. It is not claimed that the police station is locked at one point of time, therefore, one or the other police officer is likely to be present in the Police Station. Therefore, absence of Judgment Debtor no.3 is also not acceptable. Any officer of the rank of Head Constable or above present at the Police Station is deemed to be Station House Officer in the absence of Station House Officer designated by the authority. Therefore, the demarcation report was rightly relied upon by the executing Court and the demolition has been ordered.

There is no ground to interfere in the impugned order.

Consequently, present revision petition is dismissed.

23.02.2018
mamta

(KULDIP SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No