

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

Civil Revision No.2568 of 2018.
Decided on:-April 23, 2018.

Baldev Chand and others

.....Petitioners.

Versus

Swaran Singh.

.....Respondent.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Ms. Himani Kapila, Advocate
for the petitioners.

HARI PAL VERMA, J. (Oral)

The petitioners have filed the present civil revision under Article 227 of the Constitution of India impugning the order dated 22.03.2018 (Annexure P-5) passed by learned Civil Judge (Junior Division), Gurdaspur, whereby on an application filed by the respondent-plaintiff under Order XXVI Rule 9 CPC, the civil Court has appointed Kanugo of village Bhaini Milwan to demarcate the Khasra No.191 (1 K-16 M) and to report as to whether any wall or boundary wall is there and also to report as to whether it is a part of Khasra No.191 (1K-16M) or is encroaching any street.

Learned counsel for the petitioners has argued that the impugned order dated 22.03.2018 passed by the civil Court is perverse and against the law. The respondent-plaintiff has suppressed the material facts from the civil Court and has not annexed the correct site plan of the street in question. Even

the Gram Panchayat which is a necessary party, has not been impleaded. The civil Court has also failed to appreciate the fact that the dispute involved in the suit pertains to the width of the street in question only. The civil Court has exceeded its jurisdiction by expanding the ambit of local commissioner.

I have heard learned counsel for the petitioners.

The respondent-plaintiff has filed a suit for permanent injunction restraining the present petitioners/defendants from encroaching upon the brick-paved street marked with letters ABCD or any part thereof, as shown in the site plan attached with the plaint. In order to decide the question as to whether the petitioner-defendants have encroached upon the street by going beyond the boundary of Khasra No.191 (1K-16M), the civil Court has invoked one of the method of appointment of local commissioner. Therefore, this Court finds that the civil Court has not committed any illegality in allowing the application of the respondent-plaintiff filed under Order XXVI Rule 9 CPC as the objective is to ascertain as to whether there is any encroachment in the street, as detailed in the plaint. Thus, no interference is warranted in the impugned order dated 22.03.2018 passed by the civil Court by invoking the revisional jurisdiction of this Court.

Accordingly, the impugned order dated 22.03.2018 passed by the civil Court is affirmed and the instant civil revision, being devoid of any merit, is dismissed.

However, while carrying out the demarcation, it is expected that in the process of demarcation of Khasra No.191 (1K-16M), the Local

Commissioner shall make efforts not to damage the vegetables, if any, at the spot.

April 23, 2018
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No