

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND  
HARYANA AT CHANDIGARH

C.R. No.2750 of 2018

Date of Decision.07.05.2018

Ishwar

.....Petitioner

Vs

Kuldeep Jain and others

.....Respondents

**CORAM:HON'BLE MR. JUSTICE AMIT RAWAL**

Present: Mr. Abhimanyu Singh, Advocate  
for the petitioner.

-:-

**AMIT RAWAL J.(ORAL)**

The petitioner-defendant No.1 is aggrieved of the impugned order dated 27.03.2018 whereby at the stage of rebuttal evidence, the Court had directed the Tehsildar to demarcate the land especially Killa No.13//24/1, Khewat No.153, Khata No.173, 174 situated within the revenue estate of village Basskula, Gurgaon with the help of Global Positioning System.

Mr. Abhimanyu Singh, learned counsel appearing on behalf of the petitioner submitted that preceding to the filing of the suit in 2014 whereby the plaintiff had claimed possession and declaration, already a demarcation was done. No such application either on behalf of the plaintiffs or defendants was moved, therefore, the Court on its own ordered for demarcation of the area. The order under challenge is, thus, without jurisdiction and suffered from infirmity and liable to be set aside.

I have heard learned counsel for the petitioner and appraised the paper book. The impugned order reads thus:-

*“Today the case was fixed for rebuttal evidence, if any*

*and arguments and ld. Counsel for the plaintiff has placed on*

*record copy of mutation no.2184 of village Basskula and submitted that partition proceedings were pending and have attained finality during pendency of the present suit. Copy of mutation being a public document/revenue record is taken on case record.*

*During course of argument, as addressed by ld. Counsel for the plaintiff, it has come on record that some demarcation depicting encroachment was carried in absence of defendant on 1.7.2014. However, the same demarcation report was not only carried in absence of defendants but even pertain to year 2014, where-after almost three years have elapsed. In order to take a fresh look, it will be appropriate to get carried the demarcation by way of scientific means i.e. by DGPS.*

*Tehsildar concerned is directed to demarcate the land, more specially killa No.13//24/1, khewat No.153, khata No.173, 174 situated within revenue estate of village Basskula, Gurgaon by the help of Global Positioning System, as per rules. His fee is assessed @ sum of Rs.6000/- to be borne by plaintiff. Be fixed for 19.04.2018 for awaiting report as well as arguments.”*

From the pith and substance of the order, it reveals that the Court, during the course of hearing, was of the view that earlier demarcation was with regard to encroachment of 01.07.2014 whereas to ascertain the latest position with latest technology, it ordered the Tehsildar to demarcate the property with Global Positioning System as per the Rules.

The aforesaid exercise, in my view, cannot be brought within

the realm of infirmity and perversity to interfere under Article 227 of the Constitution of India. The order under challenge is perfectly legal and justified and cannot be said to be passed without jurisdiction.

The revision petition is dismissed.

(AMIT RAWAL)  
JUDGE

May 07, 2018  
Pankaj\*

Whether reasoned/speaking      Yes

Whether reportable      No