

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM-9381-9382-CII-2018 in/ and
CR 3126-2017 (O&M)
Date of decision: 08.05.2018

Ramesh Kumar

.....Petitioner

versus

Tara Singh and others

.....Respondents

CR 3140-2017 (O&M)

Ramesh Kumar

.....Petitioner

versus

Thakur Singh (deceased) and others

.....Respondents

CORAM: Hon'ble Mr. Justice Kuldip Singh

Present: Mr. Karanvir Singh Khehar, Advocate for the petitioner
Mr. M. S. Dhillon, DAG Punjab
Mr. Sant Lal Barwala, Advocate Local Commissioner

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

This order shall dispose of two connected revisions bearing CR No. 3126 of 2017 and 3140 of 2017.

Local Commissioner present in Court and submitted his report. It is reported that possession of remaining two acres of land has also been delivered. In this way, out of 32 acres 5 kanals land, possession of 32 acres land has been delivered. Now, possession of remaining 5 kanals land is to be delivered. Local Commissioner has reported that there are houses and tube well in the said property. The possession of which could not be

delivered to decree holder. Local Commissioner has further reported that arrangements of the police force were not adequate at the spot to enable the decree holder to retain the possession of the land.

On the other hand, decree holder has filed two applications, one for exemption from filing certain record and another for demarcation of the land. Learned counsel has referred to various reports which shows that there are houses and tube- well on the remaining 5 kanals of land. Learned counsel for the petitioner has also pointed out to the order dated 12.5.2017, passed by learned Additional Civil Judge (Junior Division), Ajnala, vide which, Kanungo and Patwari were directed to deliver the possession of the suit property to the decree holder after demolishing the construction, if any and submit the report. Prima facie, it appears that the Court has to first establish as to what is the area of remaining 5 kanals and what is construction thereon. Only thereafter, necessary specific orders can be passed to demolish said illegal construction. Order dated 12.5.2017, leaves it to the revenue authorities to determine the illegal construction and then demolish it.

In these circumstances, I am of the view that the Executing Court should get the report as to what is the dimensions 5 kanals land, possession of which is yet to be delivered to the decree holder and what is the extent of construction thereon to pass the specific order for demolishing the same with the police help.

I am of the view that the purpose of the present revision, has been substantially served as possession of 32 acres of land has been delivered. Let remaining part be left to the Executing Court which is seized of the matter.

In these circumstances, remaining execution of decree is left to the Executing Court with a direction to get the remaining 5 kanlas land demarcated from the revenue officials to establish its identity along with the illegal construction thereon and only thereafter, order delivery of possession to the decree holder after demolition of the same. Executing Court has liberty to appoint any revenue officer which it deemed fit and proper for the purpose of demarcation and report about illegal construction. For this purpose, the Executing Court shall take into consideration the grievance of the decree holder against a particular Kanungo so as to appoint an impartial Kanungo or any other revenue officer for the purpose of demarcation of 5 kanals of land and report about construction of the same. If necessary, the police help can also be granted to the said revenue officer. The Executing Court is directed to take the case on priority basis and dispose of the execution regarding remaining 5 kanals land as early as possible.

In view of the report of the Local Commissioner that adequate police force has not been provided to the decree holder to retain the possession and in view of the fact that a large number of people are out to disrupt the possession of Decree Holder so delivered to the decree holder in pursuant to the order of this Court, a direction is issued to the Station House Officer, Police Station Ajnala to ensure that proper police protection is provided to decree holder to retain the possession of the disputed property. It is made clear that if any disruption takes place, Station House Officer, Police Station Ajnala shall be held personally responsible and render himself liable for action by this Court.

The present revision petition stands disposed of.

Since the present petition has been disposed of, therefore, the

pending CM, if any, also stands disposed of.

Both the parties are directed to appear before the Executing Court on 21.5.2018 at 10.00 AM.

A copy of the order be placed on the connected case file.

08.05.2018
gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:	Yes
Whether Reportable:	No