

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

**CR No.4876 of 2014(O&M)
Date of Decision: 04.07.2018**

**Jagbir Singh @ Jaswant Singh and others Petitioners
Vs
Pehlad and others Respondents**

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Ashok Kaushik, Advocate
for the petitioners.

Mr. Y.P. Khullar, Advocate
for respondents No.1 and 2.

RAJ MOHAN SINGH, J. (Oral)

[1]. Petitioners have assailed the order dated 01.03.2014 passed by Additional Civil Judge (Senior Division), Hodal, whereby application under Order 21 Rule 32 CPC filed by the decree holders/petitioners was dismissed.

[2]. Civil suit for permanent injunction was filed by the plaintiffs/petitioners on 22.01.1996, which was decreed vide judgment and decree dated 11.10.2001. Defendants were restrained from interfering in possession and enjoyment of the plaintiffs over the suit property and also from making any unauthorized water course through the suit property. Violation of the decree has been alleged on the ground that as per demarcation report of the year 1992 and 1995, there was

encroachment which was removed.

[3]. The alleged overtact on the part of the judgment debtors has not been espoused with reference to any witness. The plea is discrepant with regard to time, place and manner of alleged interference by the judgment debtors. Disobedience of the decree has been alleged without there being any acceptable evidence on record. The report of Local Commissioner dated 23.09.2007 did not provide for any claim regarding alleged encroachment. In the absence of any witness examined by the decree holders/petitioners, the plea cannot be established.

[4]. The arguments against the report of Local Commissioner to the effect that the same was not conducted by affixing three pacca points cannot be accepted firstly for the reason that the report itself specifically recited that nishanan was done after cutting jawar crops from the area of killa No.16/24 north and killa No.33/24 of village Tumsara. Mentioning of three mustail mucca in the report, would negate the case of the decree holders. Even the Local Commissioner has not been examined by the decree holders, nor any evidence of proximity of the Local Commissioner with the judgment debtors has come forth on record. The ratio as laid down in **Pale Ram Vs. Arun Kumar, 2007(4) CC 176 Punjab and Haryana** can be relied in the aforesaid context. Liberty of a

person cannot be curtailed on the basis of conjectures and surmises.

[5]. In view of aforesaid, this revision petition is found to be totally devoid of merits and the same is accordingly dismissed.

July 04, 2018
Prince

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No