

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

350

RSA No.1458 of 1989 (O&M)

Date of decision: 24.01.2018

Nazar Singh

..... Appellant

Versus

Om Parkash and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present:- Mr. S.S. Brar, Advocate  
for the appellant.

None for the respondents.

\*\*\*\*\*

**ANIL KSHETARPAL, J. (ORAL)**

Defendant-appellant is in regular second appeal against the concurrent finding of fact arrived at by the Courts below.

Parties to the litigation are neighbours and plaintiffs filed a suit for possession claiming that the defendant has encroached upon 2 kanals land belonging to him. During the course of trial, a Local Commissioner was appointed. He visited the spot and with the consent of parties, identified a pillar installed in khasra No.4098 and started measurement therefrom. Ultimately, the Local Commissioner found that the defendant has encroached upon 9 marlas of land. Objections were filed by the defendant, however, no defect in the demarcation carried out by the Local Commissioner was found. Hence, the suit was decreed with respect to 9 marlas land.

Learned First Appellate Court after re-appreciating the evidence available on the file dismissed the first appeal.

Learned counsel for the appellant has vehemently contended that the report of the Local Commissioner Ex.P-1 does not bear the signatures of the defendant-appellant and therefore, such report could not be relied upon by the Court. In the considered opinion of this Court, the argument of learned counsel for the appellant cannot be accepted. Local Commissioner is an Officer of the Court who has been assigned the duty to carry out local investigation under Order 26 Rule 9, CPC and submit the report. Local Commissioner has specifically reported that both the parties were present at the time of demarcation and with their consent, demarcation was started from the pillar installed in khasra No.4088. The Local Commissioner was an independent public servant, a Naib Tehsildar, who had no personal interest.

In view thereof, there is no scope for interference with the concurrent finding of fact arrived at by the Courts below.

Appeal is dismissed.

**24.01.2018**

Dinesh Bansal

**( ANIL KSHETARPAL )  
JUDGE**

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No