

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

**CRR No. 1578 of 2011
Date of decision: 17.09.2018**

Fateh Singh

...Petitioner

Vs.

Shiv Shankar and Others

..Respondents

CORAM:HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. R.S. Sihota, Sr. Advocate with
Mr. B.R. Rana, Advocate for the petitioner.

Mr. K.P. Singh, Advocate for the respondents.

RAMENDRA JAIN, J.(ORAL)

Through this revision petition, the petitioner has challenged order dated 15.02.2011 of the revisional Court, Faridabad, whereby the matter in dispute was remanded to the Court of Ld. SDM, Palwal, while setting aside order 10.07.2006 (Annexure P-2) with a direction to get the necessary correction done from the consolidation authorities as per the revenue record pointed out by Local Commissioner-cum-Tehsildar, Palwal dated 04.01.2006 and then get the disputed passage comprising Khasra No. 1351 demarcated before passing appropriate orders under Section 133 Cr.P.C.

Briefly, the petitioner filed application under Section 133 Cr.P.C. (Annexure P-6) before Sub Divisional Magistrate, Palwal against

respondents and two more persons namely Girraj, S/o Gian Chand and Ratti Ram, S/o Lajja Ram on the allegations that they had illegally encroached Khasra No. 1351 being used as a passage by general public by illegally constructing their pucca shops. After due notice of the application, respondent put in appearance.

After hearing both the sides, learned SDM vide order dated 10.07.2006 (Annexure P-2) directed the respondents to remove their illegal construction over Khasra No. 1351, a thoroughfare.

Being aggrieved, respondents preferred revision, which was accepted vide order dated 07.03.2007 (Annexure P-4) by the revisional Court. Consequently, petitioner laid challenge to the said order before this Court vide CRR No. 1000 of 2007. This Court, vide order dated 27.03.2009 (Annexure P-5), setting aside aforesaid order dated 07.03.2007 of the Revisional Court, remanded the case to take into consideration the entire evidence available on record, in accordance with law. In turn, Revisional Court, Faridabad vide impugned order dated 15.02.2011, again setting aside the order of the Ld. SDM, Palwal dated 10.07.2006, referred the matter back to him to get the necessary correction done from the consolidation authorities in the revenue record, in view of the Local Commissioner's report dated 04.01.2006 and then pass appropriate orders after getting the disputed passage comprising Khasra No. 1351 demarcated afresh.

Learned counsel contends that the Revisional Court did not appreciate the report of Local Commissioner dated 04.01.2006 (Annexure P-1) in its right perspective that general public was suffering

on account of illegal encroachment made by respondent on the public passage. Once Local Commissioner, in his report had reported about encroachment upon Khasra No. 1351 in that eventuality, it was for the respondents to get Khasra No. 1352 demarcated to show that they did not make any encroachment over the same.

On the other hand, learned counsel for the respondents has pleaded the legality and validity of impugned order.

After having gone through the submissions made by both the sides, I find that there is no merit in the instant petition for the reasons to follow.

No substantial question of law has been raised in this revision.

Revisional Court, in the impugned order, has not taken away any right of the petitioner, rather has simply directed the SDM, Palwal to get corrected the revenue record from the Consolidation Department as pointed out in the report dated 04.01.2006 submitted by the Local Commissioner-cum-Tehsildar, Palwal and then to get the disputed land demarcated, before passing any fresh order. Therefore, the right of the petitioner has not been prejudiced in any way.

Learned counsel for the petitioner has miserably failed to point out as to what illegality or perversity exists in the impugned order, especially, when no relief has been granted to the respondents, while remanding the case to the SDM, Palwal, for fresh decision

The petitioner is litigating since the year 1999, thereby dragging the respondents into litigation for the last 19/20 years.

For effective adjudication of real controversy between the parties, the Revisional Court has rightly directed learned SDM to adopt proper recourse for connection of revenue record from the consolidation authorities, before passing any fresh orders.

In view of the discussion made above, the petition is dismissed.

September 17, 2018

Poonam (II)

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No