

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 101

CR-3510-2018

Date of decision : 01.04.2019

Gurmit Singh

..... Petitioner

VERSUS

Sukhpreet Singh @ Laddi and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. H. S. Dhandi, Advocate, for the petitioner.

DEEPAK SIBAL, J. (ORAL)

The present petition is directed against the order dated 16.02.2018, passed by the Additional Civil Judge (Senior Division), Kapurthala, allowing an application filed by the respondents through which they had sought appointment of a Local Commissioner to demarcate the suit property.

The facts, in brief, which are required to be noticed for adjudicating upon the present petition are that the petitioner filed a suit seeking therein mandatory injunction to direct the respondents, who were the defendants in the suit, to remove the “Nishan Sahib” and a tharra installed and constructed by them on the petitioner's land. On being put to notice, the respondents appeared before the Trial Court and filed an application seeking appointment of a Revenue Officer as Local Commissioner to conduct demarcation as it was the respondents' stand that the “Nishan Sahib” and the tharra had been installed/constructed on the land which was not under the ownership or possession of the petitioner. The Trial Court allowed such application through the order which is under challenge in the present proceedings.

Learned counsel for the petitioner has been heard.

The case set up by the petitioner before the Trial Court is that the respondents have encroached upon his property by wrongly installing thereupon a “Nishan Sahib” as also through construction of a tharra. The respondents dispute the petitioner's claim. The case set up by the respondents is that the aforesaid “Nishan Sahib” and tharra have been installed/constructed by them on shamlat land and not on the land owned and possessed by the petitioner. In view of the above disputed position, on an application filed by the respondents, the Trial Court, through the impugned order, has appointed a Revenue Officer to conduct demarcation and submit a report as to whether the “Nishan Sahib” and the tharra have been installed/constructed by the respondents on the land owned and possessed by the petitioner or on shamlat land. Such report by the Local Commissioner would certainly assist the Trial Court to arrive at a just and fair decision.

Even if the report is against the petitioner, he would be put to no prejudice as he would be given an opportunity to rebut the same.

Dismissed.

01.04.2019
shamsher

[DEEPAK SIBAL]
JUDGE

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No