

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

Civil Revision No. 2726-2019(O&M)

Date of decision: 29.04.2019

Madan Lal and others

.....Petitioners

versus

Babu Ramand and another

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Diwan S. Adlakha, Advocate for the petitioner

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)**

Vide judgment and decree dated 12.9.2013. suit of the plaintiff-respondent was decreed for permanent/ mandatory injunction. While holding that defendants have encroached upon one marla portion of land bearing khasra No.108//1, following decree was passed:-

*13.In view of my findings given on issue No.1 to 3 and additional issues no.1A and 1B, suit of the plaintiff succeeds and is hereby decreed and a decree for mandatory injunction directing defendants to handover the vacant possession of land measuring 1 marla towards southern side of khasra No.108//1 and permanent injunction restraining defendants from interfering in the peaceful possession of plaintiffs over the suit land by way of raising any type of construction therein, is passed. Decree sheet be prepared accordingly. File be consigned to the record room, after due*

*compliance.*

Now, in the execution proceedings, the JD filed two applications one for demarcation through satellite machine and second dated 7.1.2019 i.e. Objections against demarcation report. Both the said applications were dismissed.

Heard.

It comes out that the dispute was regarding one marla of land, which is towards the southern side of the said khasra No.108//1. Possession of the same was to be delivered to the plaintiffs. It also comes out from the judgment that during pendency of the said suit, demarcation was got conducted through Naib Tehsildar. It was after recording the finding regarding encroachment, the decree was passed.

Learned counsel for the petitioner/ JD states that he has already vacated the area belonging to the plaintiffs/respondents. However, he does not say that he has handed over the possession of one marla land to the plaintiff/ DH. His prayer is for demarcation through satellite machine and objections against the demarcation report.

I am of the view that demarcation was conducted during trial of civil suit, the area was determined and decree was passed. Therefore, by way of fresh demarcation the said issue cannot be re-opened. The present petitioner merely says that he has vacated one marla of land. However, he does not say that he has handed over the possession of one marla of land. Therefore, one marla land is to be determined as per judgment and decree of the Court and not by way of fresh demarcation. If the present petitioner has already vacated one marla of land, he should quietly hand over the said possession of said one marla to the decree holder.

It also comes out that the petitioner JD himself got the demarcation conducted and thereafter filed objections, on which order dated 19.3.2019 was passed. During execution proceedings, it is for the Executing Court to see that the decree is complied with. JD cannot come up with his own demarcation without the order of the Court to claim that the demarcation conducted in the suit is incorrect.

No ground is made out to interfere.

Resultantly, the present petition stands dismissed.

**29.04.2019**

*gk*

**(Kuldip Singh)  
Judge**

Whether speaking/ reasoned: Yes

Whether Reportable: No