

CR No.6051 of 2019 (O&M)

Date of Decision: 24.09.2019

Chaman Lal

.....Petitioner

Versus

Tara Chand and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present: Mr. Roshan Lal Sharma, Advocate for the petitioner.

NIRMALJIT KAUR, J. (ORAL)

The present revision petition is filed against the order dated 13.09.2019 passed by the Additional Civil Judge (Senior Division), Naraingargh (for short, the Executing Court), in Execution No.785 dated 19.08.2015, vide which, the objections filed by the petitioner, were rejected.

Learned counsel for the petitioner while praying for setting aside the impugned order dated 13.09.2019, submitted that the only relief that was granted to the respondent/DH was of permanent injunction. Hence, the respondent/DH could not raise the boundary wall on the land bearing khasra No.125 as the same would result in obstruction of the path being used by the villagers. Further, three reports of the different Local Commissioners placed on record Ex.R1 to Ex.R3 show a concrete passage of east in khasra No.125. Hence, the Executing Court could therefore not have appointed another Local Commissioner, vide order dated 17.08.2019. It is further stated that the Executing Court proceeded to dismiss the objections without taking into account the arguments raised by learned counsel for the petitioner.

The arguments of learned counsel for the petitioner have no merit as noticed by the Executing Court that there is no dispute

between the parties that the land bearing khara No.125 was owned by the

DH. It is also not disputed that an injunction was issued in favour of the DH on 18.05.2011 restraining the JD from interfering in the peaceful possession of the decree holder over the land bearing khasra No.125. As per the various reports, which have been placed on record, Ex.R1 to Ex.R3 have already been identified on the spot by two independent Local Commissioners. Further, no street exists on the spot as per the report of the Local Commissioner dated 17.08.2019, which is duly supported with photographs. Even otherwise, learned counsel for the petitioner has not been able to show as to how he has right to the passage, if any, in khasra No.125 once the JD is restrained from interfering in the peaceful possession of the DH qua khasra No.125.

No interference is called for in the order passed by the Executing Court.

Dismissed accordingly.

(NIRMALJIT KAUR)
JUDGE

24.09.2019
sandeep

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No