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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Revision No.7 of 2019
Date of Decision: 08.01.2019

Om Parkash

.....Petitioner

Vs

Rajbir

....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Ashok Arora, Advocate
for the petitioner.

RAJ MOHAN SINGH, J. (Oral)

[1]. Petitioner has assailed the order dated 17.10.2018 passed by Civil Judge (Jr. Divn.) Hansi, vide which the application filed by the defendant/petitioner for issuance of directions to the Tehsildar, Hansi for demarcating the land measuring 11 *Kanals* 06 *Marlas* comprised in *Khasra* No.543//1/1 (4-8) and 2/1 (6-18) situated in village Hansi Tehsil Hansi, District Hisar was dismissed.

[2]. Perusal of the impugned order would show that the trial Court has recorded the factual finding that the possession of house measuring 91.25 sq. yards was the subject matter of civil suit which was decreed. In execution proceedings of the said decree titled '*Singh Ram vs. Krishan*' the order dated

07.01.2017 was passed dismissing the objections filed by the defendant/petitioner. Thereafter warrant of possession was issued after due identification of the property in question.

[3]. Filing of application for demarcation of the property was found to be an act of holding the execution as the identity of the property was never in dispute after dismissal of the 3rd party objections filed by the present petitioner.

[4]. The application filed by the defendant/petitioner before the Tehsildar, Hansi in the event of non-acceptance of the same would have given cause of action before the officers in hierarchy and thereafter in the High Court in original jurisdiction. The filing of application before the civil Court in a pending suit would amount to collection of evidence with the process of the Court, which in considered opinion of this Court is not sustainable.

[5]. In view of above, the application has rightly been held to be not maintainable by the trial Court. There cannot be any exception to the impugned order passed by the trial Court. This revision petition is found to be devoid of merits and the same is accordingly dismissed.

January 08, 2019

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No