

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 4223 of 2019

Date of Decision: 5.3.2020

Tarsem Kumar since deceased through LRs

...Petitioner

Vs.

Panchayat Samity through Block Development and Panchayat Officer
and another

...Respondents

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. Rakesh Gupta, Advocate
for the petitioner.

Mr. R.S. Mehta, Advocate
for the respondents.

RAJIV NARAIN RAINA, J. (Oral)

1. This petition has been filed under Article 227 of the Constitution of India complaining that the learned District Judge Sirsa in its order dated 10.5.2019 while transferring the case from the one Civil Judge to the another Civil Judge in Dabwali has made an observation in paragraph 21 of the order which was not required in a transfer application to the following effect:-

“It is thus quite clear that same land is being reclaimed by defendants (applicants here). So, where is requirement of any demarcation.”

2. Counsel says these utterances were not called for, as they fall within the province of the transferee judge. The proceeding from which this petition arises at the behest of the defendants is pending under Section 144 of the Code of Civil Procedure, 1908 (for short 'CPC')

3. I do not think Mr. Gupta is incorrect in this submission that while transferring the case from one Court to the another on the ground that it had lingered on abnormally by the previous judge for too long a time and without any rhyme or reason in implementation of judgments and orders of superior courts, therefore, any such observation made could have been avoided so that it does not influence the mind of the Judge to whom the case has been transferred or prejudice the parties and the question should be left open.

4. I agree with the contention that the learned District Judge should have left the transferee judge to start with a clean slate from where it had been left without any additional baggage added to carry onward to decide the issue of demarcation of the suit property. It will be for the transferee judge to see for himself whether there is sufficient material to secure the ends of justice concluding one way or the other on the request of demarcation whether to accept or decline the same or to resort to such legitimate measures as are available in law to the parties in proceedings under Section 144 of the CPC for restitution of the status quo ante praying that parties be put back to their original position in the suit in terms of the final judgment.

5. With the above observations, the challenge to the order transferring the case is dismissed for want of sufficient ground for interference but the comments and remarks regarding demarcation of suit land are deleted as they were not necessary for the transfer by

leaving the issue open to be resolved by the new judge as per law.

5.3.2020

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(RAJIV NARAIN RAINA)
JUDGE

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