

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CR No.5825 of 2019 (O&M)
Date of decision: 19th February, 2020

Sitaram

... Petitioner

Versus

Municipal Council, Kasba Charkhi Dadri & others

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Sushil Sheoran, Advocate for the petitioner.
 Mr. Deepak Manchanda, Advocate for the respondents.

FATEH DEEP SINGH, J.

Then plaintiff Sitaram filed against Municipal Council and others a suit for permanent injunction restraining defendants from interfering, dispossessing the plaintiff and creating any obstacle in the use of property measuring 53 square yards and 12 inches detailed in the head note of the plaint accompanied by the site plan and further sought to challenge notice No.53/B.1 dated 28.07.2017 issued by the Municipal Council asking the plaintiff to demolish construction thereon.

It was during the course of pendency of the suit an application was moved by the Municipal Council for appointment of Local Commissioner to enable the Court to have correct assessment of the situation at the site and ensure demarcation of the property if it falls

within the ownership of the plaintiff or the Municipal Council. The Court vide impugned orders dated 04.09.2019 allowed the application. The same is subject matter of challenge in this revision.

Upon hearing Mr. Sushil Sheoran, Advocate for the petitioner; Mr. Deepak Manchanda, Advocate for the respondents and perusing the records of the case.

The petitioner claims that the property in respect of which alleged notice has been issued belongs to the plaintiff (present petitioner) while it is the claim of the respondent Municipal Council that the same vests in them. Moreover, there is claim and counter-claim of construction on the said spot on which the parties are at loggerheads. The Court has simply appointed Tehsildar as Local Commissioner to visit the spot and demarcate the property after notice to the parties and submit his report including regarding encroachment, if any.

Learned counsel for the petitioner could not bring about what prima facie evidence has come about in their favour which did not necessitate appointment of a Local Commissioner and was a simplicitor to create evidence for the respondent Council. For judicious adjudication of such an intricate dispute which is not supported by any documentary evidence and is a matter which can be comprehensively dealt with only after demarcation at the site and that too by a revenue officer having

adequate understanding of the intricacies of demarcation, the Court would be in a position to have right assessment of the situation. Thus, this Court does not feel that there is any illegality or perversity in the impugned findings necessitating interference by this Court. There being no merit the present petition stands dismissed.

(FATEH DEEP SINGH)
JUDGE

February 19, 2020
rps

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