

In the High Court of Punjab and Haryana, at Chandigarh

**Review Application No. RS-9 of 2022
IN Regular Second Appeal No. 257 of 2022**

Date of Decision: 28.03.2022

Manjinder Singh and Another

... Applicant/appellant(s)

Versus

Baldev Singh and Another

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Amandeep Singh Jattana, Advocate
for the applicant/appellant(s).

Anil Kshetarpal, J.

1. This is an application seeking review of the order dated 18.02.2022, passed by this Court in Regular Second Appeal No. 257 of 2022. For the reasons stated in the application, the matter has been re-heard.

2. The defendants calls into question the correctness of the concurrent findings of facts, arrived at by both the Courts below, while decreeing the suit, filed by the plaintiffs, for grant of decree of permanent injunction restraining the defendants from interfering in their possession or dispossessing them.

3. It is the case of the plaintiffs that they have installed a Fuel Station and the defendants have no right to interfere into the same. The defendants did not dispute the existence of the Fuel Station, however, they claim that the plaintiffs have encroached upon their 1 kanal and 2 marlas of land comprised in rectangle No. 8 and khasra No. 8.

4. Both the Courts below, on appreciation of evidence, have

found that the defendants, in their cross-examination, have admitted that the plaintiffs are in settled possession of the property to their knowledge for a long time.

5. The appellants claim that the plaintiffs have encroached upon the property on the basis of the demarcation dated 21.12.2013. Both the Courts below, on appreciation of evidence, have found that the revenue official failed to carry out the demarcation in a proper manner as per the procedure laid down in the High Court Rules and Orders. Both the Courts below have only granted a decree of permanent injunction.

6. The learned counsel representing the appellants contends that once a demarcation has been conducted by the revenue official, then it is for the plaintiffs to object or challenge its correctness before the revenue authorities. Admittedly, the appellants got the land demarcated privately without any intervention of the Civil Court. Therefore, such official was not a Local Commissioner as per Order XXVI Rule 9 CPC. The demarcation report is only one piece of evidence in the Civil Court. The correctness of such report is to be appreciated on the basis of the entire evidence produced by the parties. Hence, the learned counsel is not correct in contending that in the absence of objection, such report is to be accepted by the Civil Court.

8. Hence, no ground is made out to interfere. The present application is dismissed.

(Anil Kshetarpal)
Judge

March 28, 2022
“DK”

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