

108 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-6003-2023 (O&M)
DECIDED ON: 07.10.2023

SUBHASH

.....PETITIONER

VERSUS

MOHAR PAL AND OTHERS

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL.

Present: Mr. Ashish Gupta, Advocate for
Mr. Vikram Singh, Advocate
for the petitioner.

VIKRAM AGGARWAL, J (ORAL)

1. The present revision petition assails the order dated 22.08.2023 (Annexure P-6) passed by the Civil Judge (Junior Division), Palwal vide which the application filed by the present petitioner- defendant for demarcation of the suit property through DGPS/computerized machine was dismissed.

2. The facts, as emanating from the paper book, are that a suit for possession was filed by the respondents-plaintiffs alongwith consequential relief of permanent injunction with regard to residential plot measuring 3 marlas (fully described in the plaint) situated within the revenue estate of Village Ghori, Tehsil and District Palwal. The said suit was decreed vide judgment and decree dated 31.08.2016. Appeal filed by the present petitioner-defendant was also dismissed.

3. An execution petition was filed by the respondents-plaintiffs (Annexure P-1). Objections were filed by the petitioner-defendant (Annexure P-2) stating that demarcation conducted on 08.09.2017 was not proper and that the petitioner had already constructed a three storey house over their

share of land 40-50 years ago and under the garb of the decree, the respondents-plaintiffs wanted to grab the residential house of the petitioner-defendant. A reply to the objections was filed by the respondents-plaintiffs (Annexure P-3). The objections were, however, dismissed vide order dated 03.08.2019 (Annexure P-4). A revision petition bearing **No.CR-7155-2019** was filed but the same was dismissed with liberty to file an appeal. However, an application for getting the demarcation done through a DGPS machine was moved. The same was dismissed by the Executing Court vide impugned order dated 22.08.2023 (Annexure P-6) leading to the filing of the present revision petition.

4. I have heard learned counsel for the petitioner.

5. Learned counsel for the petitioner has contended that the Executing Court gravely erred in dismissing the application. It has been submitted that the petitioner had given a statement on 26.05.2023 (Annexure P-5) that the petitioner would vacate the suit property on the basis of the fresh demarcation to be conducted by the DGPS machine. It has been contended that if the petitioner is found to be in possession of the land of the respondent-plaintiff, he will immediately vacate the same but wants a proper demarcation to be done.

6. I have considered the submissions made by learned counsel for the petitioner but find the same to be devoid of merit.

7. The earlier application for demarcation was dismissed vide order dated 03.08.2019 (Annexure P-4). It was held that the Executing Court could not go behind the decree and the same would have to be executed as it stands. A revision petition was filed which was withdrawn with liberty to file an appeal. No appeal was filed but again an application for demarcation was

filed, this time seeking demarcation by way of DGPS/computerized machine. No doubt, the petitioner gave a statement on 26.05.2023 that he would vacate the land if found to be in possession after the demarcation. However, this alone would not be sufficient as the application appears to have been moved only with a view to delay the execution proceedings. It has come on record that warrants of possession had been issued and efforts were being made by the petitioner- defendant to avoid the same by using one method or the other. The Executing Court rightly came to the conclusion that no ground arose to order fresh demarcation. It is not the duty of the Executing Court to satisfy the petitioner-JD and, under the circumstances, it did not commit any error in dismissing the application. No jurisdictional error has been found in the impugned order nor is the same found to be illegal warranting any interference in Revisional jurisdiction.

In view of the above, I do not find any merit in the present revision petition and the same is accordingly dismissed.

(VIKRAM AGGARWAL)
JUDGE

07.10.2023
Prince Chawla

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