

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

CR-76-2023(O&M)

Date of decision:-9.1.2023

Gram Panchayat Nalhoti

...Petitioner

Versus

Raj Kaur and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.M.L. Saini, Advocate
for the petitioner.

H.S. MADAAN, J.

1. Under challenge in this revision petition is order dated 13.9.2022 passed by the Court of Addl.Civil Judge(Sr.Divn.), Sri Anandpur Sahib vide which the prayer of revision petitioner/JD Gram Panchayat village Nalhoti for appointment of Local Commissioner has been declined.

2. Briefly stated, facts of the case are that plaintiff Raj Kaur had brought a suit for grant of permanent injunction against Gram Panchayat of village Nalhoti through its Sarpanch Block Nurpur Bedi, Tehsil and District Ropar, seeking a restraint order against the defendant from interfering into her peaceful possession and from raising any kind of construction/superstructure and from creating any kind of water logging in the suit land bearing Khata No.70/85 of Khasra No.18R/11/1/2 (2-4) contending that the plaintiff is in joint possession as co-sharer of property bearing Khasra No.18R/29/1(4-9) of khata No.71/86 with which the

defendant has no concern, though khasra No.56 is reserved for common use and purpose of the village vesting in the defendant Gram Panchayat in the shape of passage as recorded in the revenue record.

According to the plaintiff, the passage comprised in Khasra No.56 abuts the property of the plaintiff on the southern side. Various persons have encroached upon the passage comprised in khasra No.56 with active support and conspiracy of present and Ex-Sarpanch of the village Gram Panchayat. The defendant rather threatened to interfere in possession of the plaintiff over the suit land with intention to construct water drain therein. Feeling aggrieved, the plaintiff had brought the suit in question.

3. Notice of the suit was given to defendant but it did not appear despite service and was proceeded against ex-parte vide order dated 17.3.2008.

4. After recording ex-parte evidence, the trial Court of Civil Judge (Jr.Divn.) Sri Anandpur Sahib vide judgment and decree dated 22.10.2008 decreed the suit of the plaintiff ex-parte.

5. Thereafter, for enforcement of the judgment and decree, the plaintiff had filed an application under Order 21 Rule 32 read with Section 151 CPC. Notice of that application was given to respondent, who put in appearance and contested the application. Issues on merits were framed and vide judgment dated 22.12.2017, the application was accepted and property of JDs/respondents was ordered to be attached and JDs were directed to restore the suit land and to hand over the vacant possession of the part of the suit land to applicant/DH within 40 days from the date of

order.

6. During the course of execution proceedings, the JD Gram Panchayat moved an application for appointment of some suitable revenue expert as a Local Commissioner with a direction to visit the spot and to identify the property attached as per judgment and decree dated 22.12.2017 passed by the then Civil Judge (Jr.Divn.), Sri Anandpur Sahib by way of demarcation.

7. That application was opposed on behalf of the decree holder. It was dismissed by the Executing Court vide the impugned order, leaving the respondent/JD Gram Panchayat aggrieved and it has filed the present revision petition.

8. I have heard learned counsel for the revision petitioner besides going through the record.

For ready reference, the operative part of the order is being reproduced as under:

The present main application is for the implementation of order dated 22.12.2017 passed by Sh. Sachal Babbar, the then Ld. Civil Judge, Junior Division, Sri Anandpur Sahib. Admittedly, the said order has attained finality as no appeal or revision has been preferred against the said order till date and no stay order has been received. Further, perusal of the order reveals that the same was duly contested by the respondents on merits. It is the settled proposition of law that the executing court cannot go beyond the judgment and decree and is bound to implement the same in letter and spirit. In view of the above discussion, the present application

is ordered to be dismissed being devoid of merits.

9. I find that the order passed by the Executing Court is quite detailed and well reasoned and can certainly be not termed to be perverse or suffering from any element of arbitrariness. There was no occasion to appoint any Local Commissioner and the prayer was rightly declined by the Executing Court. The revisional jurisdiction of this Court is quite limited and considering the facts and circumstances of the case, there is no reason to interfere with the impugned order by way of exercising the revisional jurisdiction.

10. Finding no merit in the revision petition, the same stands dismissed.

9.1.2023
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No