

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-6924-2023
Date of Decision:-17.11.2023

RAM KUWAR

... Petitioner(s)

Versus

BALJEET AND ORS

... Respondent(s)

-. -

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

-. -

Present:- Mr. Babbar Bhan, Advocate for
Ms. Diepa Singh, Advocate for
for the petitioner.

-. -

KARAMJIT SINGH, J. (Oral)

1. The present revision petition has been filed by the petitioner/plaintiff seeking setting aside of order 16.10.2023 (Annexure P-1) passed by the Court of Civil Judge (Senior Division), Gohana in civil suit No.CS-454 of 2017 titled as Ram Kuwar vs. Baljit and Another, whereby the learned trial Court has *suo-moto* withdrawn the order of appointment of local commissioner.
2. The brief facts of the case are that petitioner filed suit for possession of the property in question with consequential relief of permanent injunction against the respondent/defendants, wherein the application filed by the petitioner for appointment of local commissioner for

demarcation of plot No.126 (1105 square yards) was allowed and Halqua Kanungo was appointed as local commissioner to demarcate the suit land vide order dated 14.1.2020.

3. From the perusal of impugned order (Annexure P-1), it appears that the aforesaid order regarding appointment of local commissioner has been withdrawn by the learned trial Court on the ground that local commissioner gave report in writing that the petitioner is not cooperating in demarcation of land and he wants to get the same demarcated as per his own will and not as per *Lal Dora* and the local commissioner had shown his inability to conduct the demarcation and resultantly the impugned order has been passed by the learned trial Court.
4. The counsel for the petitioner has *inter alia* contended that the impugned order is not sustainable as before passing of the said order, no opportunity of hearing was given to the petitioner against whom as per the report of local commissioner, there are allegations that he has obstructed the revenue officials from conducting the demarcation of site in dispute. It is further submitted that actually, there was no interference on the part of the petitioner and rather the other party has influenced the local commissioner. The counsel for the petitioner further submits that the petitioner is having no objection if the local commissioner already appointed by the trial Court conducts demarcation in accordance with law. The counsel for the petitioner also gave undertaking that the petitioner will not obstruct, the demarcation proceedings in any manner.

5. I have considered the submissions made by counsel for the petitioner. It appears that the learned trial Court passed the impugned order just on the basis of the report submitted by the local commissioner without giving any opportunity of hearing to the petitioner or the other party. Further it appears that the concerned local commissioner was not summoned in the Court to record his statement with regard to the allegations, which were made by him in his report. It seems to be improbable that parties to the suit were able to create hindrance in the demarcation proceedings to be conducted by the revenue official despite there being order of police help to maintain peace at the spot. Further during arguments, the counsel for the petitioner has assured that the petitioner will not obstruct the demarcation proceedings, in case the impugned order is recalled. Further from the perusal of the impugned order, it appears that the trial Court without recording his satisfaction with regard to the allegations made by the local commissioner in his report, passed the impugned order and thus committed irregularity. Consequently the impugned order is not sustainable in eye of law.
6. For the forgoing reasons, the present petition is allowed and the impugned order is set aside and the earlier order passed by the learned trial Court dated 14.1.2020 regarding appointment of Halqua Kanungo as a local commissioner is restored with direction that the said local commissioner should visit the site in dispute after giving prior notice to both the parties and then to conduct demarcation under the police protection and to submit his report in accordance with law, within 30

days of the receipt of certified copy of this order, by the learned trial Court.

7. Keeping in view the circumstances mentioned above, this petition is being disposed of without issuing any notice to the opposite party. However, liberty is granted to the respondent(s) that if they feel dissatisfied with this order, they may move an application to recall the same.

17.11.2023
Gaurav Sorot

(KARAMJIT SINGH)
JUDGE

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