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

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Date of decision : 03.08.2023

Haryana State Warehousing Corporation and another

..... Petitioners

Versus

Sardara (now deceased) through legal heirs

..... Respondents

CORAM : HON'BLE MS. JUSTICE AMARJOT BHATTI

Present: Mr. Gaurav Mohunta and Mr. Satyam Rathi, Advocate
for the petitioners.

Mr. Jogi Ram Nain, Advocate
for respondents No. 1C to 1K.

AMARJOT BHATTI J. (ORAL)

The petitioners have filed civil revision against impugned order dated 14.12.2022 (Annexure P-1) in Civil Suit No. 1068/2013 vide which final relief has been granted to the plaintiff at interim stage on the basis of report of Local Commissioner without giving any opportunity to the petitioners/defendants to file objections.

The learned counsel for the petitioners/defendants referred to the copy of plaint (Annexure P-2) titled “Sardara Versus Haryana Warehousing Corporation and another” in suit for possession of 13 marlas of land bearing Khasra number with the dimensions as detailed in the head note of the plaint. The copy of written statement filed by the petitioners is Annexure P-3.

It is matter of record that the suit was decreed vide judgment and decree dated 01.08.2015. Copy of judgment is Annexure P-4. The present

petitioners/defendants filed appeal bearing Civil Appeal No. 166 of 2015 which was decided on 05.02.2020, according to which the case was remanded back to decide the matter afresh on the basis of report of Local Commissioner after deciding objections if any made by any party. The trial Court was directed to appoint some Revenue Officer not below the rank of Tehsildar as Local Commissioner with the direction to carry out demarcation of the land as per the instructions/guidelines of Financial Commissioner and High Court Order and Rules. The copy of judgment in appeal is Annexure P-5. Thereafter, the case was again taken up by the trial Court in which impugned order dated 14.12.2022 (Annexure P-1) has been passed. As per this order, on the receipt of report of Local Commissioner the warrants of possession have been issued for 23.12.2022 with police help.

The aforesaid factual position is not disputed by the learned counsel representing the respondents i.e. legal heirs of Sardara. The learned trial Court was required to follow the directions given in the judgment dated 05.02.2020 passed by learned District Judge, Jind, according to which the case was remanded back for fresh decision on the basis of report of Local Commissioner. However, erroneously the learned trial Court after receiving the report of Local Commissioner straight away issued the warrants of possession with police help. It is rightly pointed out by the learned counsel for petitioners that no opportunity was provided to them to file objections. After decision of objections if any the trial Court was required to pass fresh judgment by appreciating the facts, evidence and the report of Local Commissioner. Therefore, I find merits in the revision filed by the petitioners and the impugned order dated 14.12.2022 is accordingly set aside

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with the direction to decide the case as per the judgment dated 05.02.2020 passed by learned District Judge, Jind.

The civil revision is accordingly, disposed of.

(AMARJOT BHATTI)
JUDGE

03.08.2023
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Whether speaking/reasoned:	Yes
Whether Reportable:	Yes/No