



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

137

RSA-217-2025 (O&M)
Date of decision: 23.01.2025

AMAR SINGH ..Appellant

Versus

TARA CHAND (DECEASED) THROUGH LRS. & ORS ..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. V.P. Sangwan, Advocate
for the appellant.

ANIL KSHETARPAL, J(Oral)

1. The correctness of concurrent findings of fact arrived at by the Courts below while decreeing plaintiffs suit restraining the defendants from causing any obstruction over the street having breadth of 33 feet is challenged by the defendants. The plaintiffs filed the suit claiming that the defendants are trying to encroach upon street of 33 feet breadth. The defendants filed counter claim claiming that they are owner in possession of plot No.153, 154, 155 and 156 and they have not encroached upon any part of the street. The Court appointed a field *kanungo* to carry out the demarcation. It was found that the plaintiffs as well as defendants have encroached upon some part of the street. The extent of the encroachments made by plaintiffs and defendants are as under:-

Encorachment made by the plaintiffs:-

<i>Khasra No.</i>	<i>East</i>	<i>West</i>	<i>North</i>	<i>South</i>	<i>Encroached area</i>
245min	9 karams	9 karams	2 karams	3 karams	2 ½ marla



Encorachment made by the defendants:-

<i>Khasra No.</i>	<i>East</i>	<i>West</i>	<i>North</i>	<i>South</i>	<i>Encroached area</i>
<i>245min</i>	<i>7 ½ karams</i>	<i>7 ½ karams</i>	<i>1 karams (7 feet)</i>	<i>1 karam (7 feet)</i>	<i>1 marla</i>

2. Accordingly, the Court directed the parties, namely the plaintiffs as well as defendants to remove their respective encroachments. The plaintiffs filed first appeal, whereas, defendants filed cross-objections. The appeal filed by the plaintiffs was dismissed as withdrawn, whereas, counter-claim filed by the defendants was dismissed.

3. Learned counsel representing the appellant submits that demarcation of constructed area was not possible and hence, the Courts have erred in decreeing the suit. He submits that a new local commissioner should be appointed to carry out the demarcation.

4. This Court has considered the submissions of learned counsel for the appellant.

5. It has been noticed that the Court appointed an experienced revenue official to demarcate the property, which was carried out after issuance of notices to the parties. The defendant-appellant was present, however, he refused to sign the report.

6. Learned counsel for the appellant has failed to draw the attention of the Court to any substantive error committed by the local commissioner while demarcating the area.

7. Appointment of another local commissioner at the stage of regular second appeal would not be appropriate particularly when the scope of interference in the findings of fact arrived at by the Courts below is limited.



- 8. Hence, the appeal is dismissed.
- 9. All the pending miscellaneous applications, if any, are also disposed of.

January 23rd, 2025
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(ANIL KSHETARPAL)
JUDGE

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