



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

Date of decision :30.04.2025

1. CR-6989-2018 (O&M)

Suraj Bhan ...Petitioner

Vs.

Hari Om and others ...Respondents

2. RSA-1212-2013 (O&M)

Suraj Bhan ...Appellant

Vs.

Hari Om and another ...Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

**Present: Mr. Bhim Kumar Bagri, Advocate
for the petitioner.**

**Mr. J.P. Jangu, Advocate
Mr. Sagar Dangi, Advocate
for respondents No. 1 and 2 in CR-6989-2018.**

**Mr. Ajay Jain, Advocate
for respondents No. 1 and 2 in RSA-1212-2013.**

ANIL KSHETARPAL, J. (Oral)

1. With the consent of learned counsel representing the parties, RSA-1212 of 2013 and CR-6989-2018 shall stand disposed of by this common order.

2. Defendant No.1 assails the correctness of concurrent findings of fact arrived at by the Courts below while decreeing the plaintiffs' suit for



possession of the suit property. In fact, the plaintiffs are the owner of 18 marlas land comprised in Khasra No. 106, whereas, defendants are the owner of land comprised in Khasra No. 105. Hence, they are the owners of the property adjoining to each other. The plaintiff alleges that some portion of his property has been encroached upon by the defendants. The Revenue officials, namely, PW6- Rattan Lal, Naib Tehsildar and PW8-Sh. Ramesh Chand, Officer Kanungo carried out the demarcation and found that there is encroachment by the defendants. Hence, the suit was decreed.

3. Learned counsel representing the appellant(s) submits that the plaintiffs are claiming possession in excess of their entitlement, which cannot be decreed. On a Court question, he fairly admits that this issue was neither taken up in their written statement nor any evidence was led.

4. This Court is of the view that the issue which has neither been made part of the written statement nor supported by any evidence, can not be permitted to be pressed for the first time in the second appeal.

5. At this stage, learned counsel representing the parties have come to a consensus.

6. Learned counsel representing the appellant(s) has agreed to bear the expense of a fresh demarcation, which shall be carried out with the help of Global Positioning System (GPS) enabled total station machine (theodolite). After the demarcation, the report shall be submitted to the Executing Court. It is also agreed that if it is found that the appellants have encroached upon the property of the plaintiffs then they will not file any further objections.

6. With these observations, RSA-1212 of 2013 and CR-6989-2018



are disposed of.

7. The Executing Court is requested to appoint a Local Commissioner to get both the properties demarcated comprised in Khasra Nos. 105 and 106.

8. All the pending miscellaneous applications, if any, are also disposed of.

30.04.2025
neeraj

(ANIL KSHETARPAL)
JUDGE

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