

CR-8147-2018

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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CR-8147-2018

Date of decision : 31.07.2025

Rawal Ram (since deceased) through his LRs

... Petitioner

Versus

Channo and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Himanshu Gulati, Advocate
for the petitioner.

Mr.Kiran Kumar Mada, Advocate
for respondents no.1 and 2.

VIKAS BAHL, J.(ORAL)

1. This is a Civil Revision Petition filed under Article 227 of the Constitution of India praying for quashing the impugned order dated 18.10.2018 passed by the Civil Judge (Jr.Div.), Jalandhar, vide which the application filed by the respondents no.1 and 2-plaintiffs for demarcation of suit property has been allowed.

2. Learned counsel for the petitioner has submitted that in the present case, there is no requirement for appointment of Local Commissioner to demarcate khasra no.327 and thus, the application filed by respondents no.1 and 2 for demarcation of the suit property is misconceived and deserves to be rejected and the impugned order allowing the said



application also deserves to be set aside.

3. Learned counsel for respondents no.1 and 2, on the other hand, has submitted that the learned trial Court after taking into consideration the facts and circumstances of the case had allowed the application filed by the respondents no.1 and 2 –plaintiffs for demarcation of the suit property on account of there being a dispute regarding identity of the property. It is submitted that the appointment of the Local Commissioner for the purpose of demarcation is within the power of the trial Court and as per settled law, a revision petition against the same under Article 227 of the Constitution of India is not maintainable. In support of his arguments, learned counsel for respondents no.1 and 2 has relied upon the judgment of the Co-ordinate Bench of this Court passed in the case of ***Ravinder Kumar vs. Union of India and anr.*** reported as ***2019(4) R.C.R. (Civil) 519***. It is submitted that thus, the impugned order is in accordance with law and the present revision petition deserves to be dismissed.

4. This Court has heard learned counsel for the parties and has perused the paper book and is of the opinion that that the present revision petition is meritless and deserves to be dismissed and the impugned order dated 18.10.2018 is in accordance with law and deserves to be upheld.

5. It is not in dispute that respondents no.1 and 2 had filed a suit in which the following prayer was made:-

“Suit for separate possession by way of partition by metes and bounds to the extent of ½ share to the plaintiffs in respect of

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house measuring about 5 Marlas, comprised in Khewat No. 85, Khatauni No. 109, Khasra No. 327(2-14), situated at Village Kapur Pind, Tehsil and District Jalandhar, as per Jamabandi for the year 2008-2009, as shown red in colour in the site plan attached and bounded as under:

<i>East</i>	-	<i>Street</i>
<i>West</i>	-	<i>House of Gurdev Ram</i>
<i>North</i>	-	<i>Street</i>
<i>South</i>	-	<i>House of Rattna Ram</i>

AND

Suit for permanent injunction restraining the defendants, their agents, attorneys, nominees, associates etc. from alienating, transferring, mortgaging, leasing, gifting and dispossessing the plaintiffs from the suit property, which are jointly owned by the plaintiffs and defendants in equal share, forcibly and illegally and unlawfully till the partition of the same, in any other manner whatsoever.”

A perusal of the above prayer would show that it is the specific case of plaintiffs-respondents no.1 and 2 that the house measuring 5 marlas is comprised in khewat no.85, khatauni no.109, khasra no.327(2-14) situated at village Kapur Pind, Tehsil and District Jalandhar and a site plan regarding the same was attached and specific boundaries of the house in question were also detailed.

6. In the written statement filed by the defendants including defendant no.1 (petitioner), it was specifically stated that the site plan attached with the plaint was totally incorrect and that the defendants had



annexed the correct site plan along with the written statement.

7. Respondents no.1 and 2 had filed an application for demarcation of the suit land as described in the head note of the plaint and shown in red colour in the site plan, as the petitioner-defendant no.1 had raised doubt about the identity of the property. The trial Court vide order dated 18.10.2018 after taking into consideration the pleadings of the parties and also the law on the point, had allowed the application and directed the Halqa Patwari of village Kapoor Pind, Tehsil and District Jalandhar to demarcate the suit land and to further report as to whether the suit property falls in khewat no.85, khatauni no.109, khasra no.327(2-4) situated at village Kapoor Pind, Tehsil and District Jalandhar. In the said order, the law laid down by the Orissa High Court as well as by the Punjab and Haryana High Court to the effect that when there was a controversy with respect to identification, location or measurement of the land or property, then local investigation could be ordered by the trial Court at an early stage so that parties are aware of the factual position and can go to trial after being prepared, was considered. The said order is in accordance with law and the demarcation report would help the trial Court in properly adjudicating the matter. No prejudice would be caused to the petitioner in case, such report is submitted and it is always open to either of the parties to raise any objection in accordance with law against the said report in case the report is not in accordance with law.

8. Additionally, it would be relevant to mention that the provision



of Order 26 Rule 9 CPC provides that it is within the power of the Court to issue a Commission to such person as it thinks fit, to make an investigation on some aspects and the said power is an enabling power of the Court. Once the trial Court has chosen to exercise the said power after considering the facts and circumstances of the case, then, it cannot be said that any substantial right of the parties has been decided so as to challenge the said order in a revision petition under Article 227 of the Constitution of India. The parties would be well within their rights to lead substantive evidence during the trial. The Coordinate Bench of this Court in ***Ravinder Kumar's case (supra)*** had observed that the order refusing to appoint Local Commissioner or accepting the prayer for appointment of Local Commissioner are not revisable orders as such orders do not decide any substantive right of the parties and it is open to the parties to lead substantive evidence during trial.

9. The Hon'ble Supreme Court in the case of ***"Shalini Shyam Shetty and another Vs. Rajendra Shankar Patil"***, reported as ***(2010) 8 Supreme Court Cases 329***, had observed that the High Courts cannot, at the drop of a hat, in exercise of its power of superintendence under Article 227 of the Constitution, interfere with the orders of tribunals or courts inferior to it. Nor can it, in exercise of this power, act as a court of appeal over the orders of court or tribunal subordinate to it. It was also observed in the said judgment that a statutory amendment with respect to Section 115 of the Civil Procedure Code does not and cannot cut down the ambit of High



Court's power under Article 227, but at the same time, it must be remembered that such statutory amendment does not correspondingly expand the High Court's jurisdiction of superintendence under Article 227. The power of interference under this Article is to be kept to the minimum to ensure that the wheel of justice does not come to a halt and the fountain of justice remains pure and unpolluted in order to maintain public confidence in the functioning of the tribunals and courts subordinate to the High Court. It was also observed that the power under Article 227 may be unfettered but its exercise is subject to high degree of judicial discipline.

10. Keeping in view the above said facts and circumstances, the impugned order deserves to be upheld and is accordingly upheld and the present revision petition filed by the petitioner being meritless, deserves to be dismissed and is accordingly dismissed.

(VIKAS BAHL)
JUDGE

July 31, 2025.
Davinder Kumar

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