



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

ESA No.35 of 2015 (O&M)

Date of Order:26.03.2025

Gurdial Singh

.Appellant

Versus

Kabal Singh (Deceased) through LRs and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vijay Lath, Advocate
Mr. Naveen Sharma, Advocate
for the appellant.

Mr. Amit Gupta, Advocate
for respondent no.1.

ANIL KSHETARPAL, JUDGE (Oral)1. **BRIEF FACTS:-**

1.1. The appellant before this court is the Judgment Debtor's son. The suit for possession filed by the Decree Holder-Kabal Singh was decreed on 20.08.1993. While filing the suit, the decree holder prayed for delivery of possession of the following properties:-

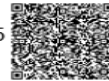
“Suit for possession as owner of the premises shown red in the site plan attached marked ABCD shown red in the sit plan attached marked as Annexure 'A' measuring North= 38', South=38', East= 23'-3”, West= 23'-3”, bounded as follows:-

North: Property in possession of Bakshish Singh defendant bearing evacuee property no.460.

South: Residential house of the plaintiff bearing evacuee property no.462.

East: Rasta

West: Hindu property ie. house of Des Raj and



a part of property of Kartara being evacuee property no.461, situated in Moh. Jalandhari Gate, PO: Nurmahal, now in illegal possession of the defendant after removal of malba/construction, if any.”

1.2. The decree became final. In the execution petition, the possession of the suit property was delivered to the decree holder. Subsequently, the appellant, who is the Judgment Debtor's son filed an application for restitution of the possession on the ground that the appellant has been delivered possession in excess to his entitlement. The appellant claims that he is the one of the owner of property comprised in khasra nos.457, 458, 459 and 460.

1.3. Both the courts dismissed the application for restitution.

2. **ARGUMENTS ADDRESSED:-**

2.1. The learned counsel representing the appellant has been heard at length. He has submitted that the decree holder has been delivered excess possession out of the land comprised in khasra no.469.

2.2. He submits that the local commissioner was appointed by the Executing Court but his report was not relied upon. He further submits that before the First Appellate Court, another application for appointment of local commissioner was filed which was dismissed. In this appeal also, again an application for appointment of local commissioner has been filed.

2.3. The learned counsel representing the appellant submits that whenever there is a dispute with regard to the boundaries of the properties, the local commissioner must be appointed.

3. **ANALYSIS AND DISCUSSION:-**

3.1. This court has considered the submissions of the learned



counsel representing the parties

3.2. The application filed by the appellant is with respect to restitution of possession. It is not the case of the appellant that the decree holder has been delivered possession of area in excess of 38'x23.3'. In restitution application, the court is not expected to decide the inter-se dispute between the parties. The scope of restitution is to restore possession, if there is excess delivery of possession, however, the appellant has failed to prove the same.

4. **DECISION:-**

4.1. Keeping in view the aforesaid facts and discussion, no ground to interfere is made out.

4.2. Dismissed.

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

(ANIL KSHETARPAL)
JUDGE

March 26, 2025

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