

(2013) 08 P&H CK 0799

High Court Of Punjab And Haryana At Chandigarh

Case No: CR No. 4183 of 2013

Jai Bhagwan

APPELLANT

Vs

Rajpal Singh and Others

RESPONDENT

Date of Decision: Aug. 5, 2013

Acts Referred:

- Constitution of India, 1950 - Article 227

Hon'ble Judges: Paramjeet Singh, J

Bench: Single Bench

Advocate: Jagdish Manchanda, for the Appellant; N.K. Malhotra, Advocate, for the Respondent

Final Decision: Allowed

Judgement

Paramjeet Singh, J.

Instant revision has been filed under Article 227 of the Constitution of India for setting aside the order dated 04.12.2012 passed by the learned Additional District Judge, Rohtak whereby application moved by the petitioner for appointment of Tehsildar or Girdawar as local commissioner for identifying the land, specifically the area mentioned in the sale deed, so that the identity of land purchased by the petitioner could be established, has been dismissed. While dismissing the said application, the learned Additional District Judge, Rohtak has observed that there is no necessity to appoint the local commissioner in the present case for demarcation of the property in question and has further observed that it would amount to collect evidence to fill up lacuna in sheer abuse of process of law. I have heard learned counsel for the parties and perused the record.

2. Perusal of the plaint indicates that in the title of the case, only suit for declaration with consequential relief of permanent injunction has been mentioned. In para no. 2 of plaint, no khasra number has been mentioned, it is only mentioned that the plaintiff was owner in possession of plot measuring 166/3/4 square yards situate in

village Pilana, Tehsil & District Rohtak which is bounded as under:

The said property is stated to have been purchased by the plaintiff-respondent no. 1 herein vide registered sale deed bearing No. 3747, Bahi No. 1, Jild No. 495 dated 19.10.1982. The contention of learned counsel for the petitioner-defendant no. 2 is to the effect that this land is a part of khasra no. 251 and defendants no. 2 and 3 had purchased 5/9th share out of khasra no. 251 vide registered sale deed dated 12.06.1986.

3. Keeping in view the fact that the suit land has a specific khasra number, in such circumstances, it is necessary to identify khasra no. 251 and thereafter the measurements are to be taken as mentioned in the respective sale deeds. This can only be ascertained by appointing a local commissioner, otherwise it will create problem which cannot be resolved, if some decree is passed. In these circumstances, this Court is of the view that Local Commissioner is required to be appointed to identify and demarcate the area mentioned in the respective sale deeds. In this regard, reliance can be placed on [Haryana Waqf Board Vs. Shanti Sarup and Others](#), . In view of above, the instant revision is allowed, the impugned order dated 04.12.2012 is set aside and the learned Additional District Judge, Rohtak is directed to appoint some revenue official, not below the rank of Naib Tehsildar to identify and demarcate the area mentioned in various sale deeds.