



129 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

ESA-14-2022 (O&M)
Date of decision : 02.05.2025

Chaman Lal

...Appellant

Vs.

Ram Lal (Deceased) through LRs

...Respondent

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vinod K. Kataria, Advocate
for the appellant.

Dr. Anand Kumar Bishnoi, Advocate
Mr. Nikhil K. Vashisht, Advocate
for the respondent.

ANIL KSHETARPAL, J. (Oral)

1. This is an unfortunate litigation between two brothers. The appellant-Sh. Chaman Lal filed a suit for grant of decree of permanent injunction restraining his brother-Sh. Ram Lal from interfering in his peaceful possession with respect to property comprised in rectangle No.37 khasra No. 14/2/1.

2. Sh. Ram Lal filed a counter-claim for possession claiming that he has purchased the property from his uncle Sh. Hoshiara Ram by the sale deed dated 22.04.1992. The suit filed by Sh. Chaman Lal was dismissed, whereas, counter-claim filed by Sh. Ram Lal was decreed, which was upheld in first and second appeal. Sh. Ram Lal filed an execution petition. During the pendency of the execution petition, Sh. Chaman Lal purchased plot comprised in rectangle No. 37 khasra No. 23/2/2 (04 marlas) on 14.05.2018 and filed objections



claiming that his house is located in land comprised in rectangle No. 37 Khasra No. 23/2/2. The Executing Court nominated a Local Commissioner. Sh. Chaman Lal got the properties demarcated and produced report in the Court that the house of Sh. Chaman Lal is located in rectangle No. 37 Khasra No. 23/2/2. The Court rejected the report on the ground that the demarcation has not been carried out from *pakka* point. Thereafter, the Executing Court proceeded to dismiss the objection petition on the ground that there is decree against Sh. Chaman Lal, which has been affirmed by the High Court.

3. Heard the learned counsel representing the parties at length and with their able assistance perused the paper-book.

4. It is evident that the Executing Court has failed to determine as to whether the house of Sh. Chaman Lal is in rectangle No.37 khasra No. 14/2/1 or rectangle No. 37 khasra No.23/2/2. The decree in favour of Sh. Ram Lal could only be executed with respect to property comprised in rectangle No.37 khasra No. 14/2/1. Hence, the Executing Court was required to identify the property comprised in rectangle No.37 khasra No. 14/2/1. If the Executing Court found that the demarcation report as produced by the Judgment Debtor is not correct then Revenue Authorities could be directed to demarcate the land afresh, however, the manner in which the Court have proceeded is not appropriate. Undoubtedly, the appellant is bound by the decree passed by the Court with respect to plot comprised in rectangle No.37 khasra No. 14/2/1. Hence, the Executing Court is directed to identify the suit property and thereafter, proceed with the execution petition.

5. Learned counsel representing the respondent submits that the possession of the house has already been delivered to the decree-holder. Be



that as it may.

6. The Executing Court would first appoint a Local Commissioner and identify the suit property in rectangle No.37 Khasra No. 14/2/1 and thereafter, proceed to decide the matter.

7. The parties through their learned counsel are directed to appear before the Executing Court on 29.05.2025.

8. The appeal is disposed of.

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

02.05.2025

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(ANIL KSHETARPAL)
JUDGE

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