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

CR-2203-2024

Date of decision : 24.03.2025

PARKASH RAM ALIAS RAM PARKASH AND ANOTHERPetitioners

Versus

DEV RAJ

.....Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. B.S. Khehar, Advocate
for the petitioners.

Mr. Sanjay Majithia, Sr Advocate with
Mr. Sumit Sinha, Advocate
for the respondent.

PANKAJ JAIN, J. (ORAL)

Challenge is to the order dated 29.01.2024 passed by the Executing Court dismissing the objections filed by Judgment Debtors and allowing the application filed by the Decree Holder directing the Judgment Debtors to remove illegal encroachment in the passage in dispute within a period of two months from the date of passing of the order.

2. The petitioners are the Judgment Debtors having suffered decree dated 27.11.1998 directing them to remove illegal and unlawful construction from the passage in suit within two months. In order to enforce decree, Local Commissioner was appointed by the Executing Court vide order dated 05.12.2023. In compliance of the said order, the concerned



Local Commissioner filed report wherein he pleaded that keeping in view large inhabitation in the area, it is not possible to conduct correct demarcation with *Zarib* i.e. measurement tape and if the concerned parties agreed, the measurement be effected by way of DGPS.

3. Executing Court vide impugned order allowed the execution application relying upon demarcation report submitted by revenue authorities, dated 12.12.2008.

4. Counsel for the petitioner while assailing the impugned order submits that there being no fresh demarcation report, Executing Court ought not have gone by the report dated 12.12.2008 and should have rather ordered fresh report.

5. Mr. Majithia, learned Senior Counsel representing the Decree Holder submits that the JDs have illegally encroached upon public passage. The same is nuisance to public at large. Despite there being specific decree against them, dated 27.11.1998, the encroachment continues.

6. Having heard counsel for the parties and after carefully going through records of the case, this Court finds that the Executing Court having itself appointed Local Commissioner to fathom the encroachment on 05.12.2023, should have got demarcation conducted through scientific method instead of relying upon 16 year old report.

7. Keeping in view the interest of the parties, this Court finds that the impugned order deserves to be set aside. Trial Court is directed to get the demarcation effected through DGPS under the supervision of concerned



SDM within a period of **four weeks** from the date of receipt of certified copy of this order and decide the execution application filed by the Decree Holder accordingly within a period of **four weeks** thereafter.

8. Resultantly, the instant petition is disposed off.

March 24, 2025

(Pankaj Jain)

Dpr

Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No