

Present: Sh. TC Gupta, Advocate for the DH
Sh. HC Rathore, Advocate for JDs No. 1, 2 and LR No. 1 of
JD No. 3

This order of mine shall dispose of the objections to the report of Local Commissioner dated 07.03.2020 filed by the JD.

2. Applicant in his application averred that the report of local commissioner is wrong and is not according to the existing position and therefore, the same should be set aside on the ground that the local commissioner was appointed by the Court to demarcate the vacant plot and to deliver possession of the same to the DH upto the area measuring 5 marlas as per compromise between the parties and the area of the vacant plot is 0-6.75m and the local commissioner/Halka Kanoongo has wrongly shown in his report that the area of vacant plot is 0-4.6m only and thus, the local commissioner is willing to help the DH by delivering possession of more area to him. The applicant further averred that even in the site plan placed on record by the DH, vacant plot of 5 marla has been shown as ABCD whereas the remaining land has been shown as property of applicant-Tarsem Singh. Finally, the applicant-objector prayed for setting aside report of local commissioner and for appointment of another local commissioner upto the rank of Naib Tehsildar with direction to demarcate the vacant plot comprised in khasra number 54.

3. Notice of the application served upon the plaintiff-DH who filed reply to the application denying the contents of the objection application and further averred that there was a compromise between the parties on 08.10.2019 and the objector himself has admitted that the area which is 5 marla as shown in site plan ABCD, will be given to Joginder

Singh. He further averred that the area, whatever, has already been admitted by both the parties and the question as to the area is less or more, carries no weight. The respondent finally prayed for dismissal of objection application and for passing of final decree and for delivery of possession according to the compromise.

4. I have heard learned counsel for the plaintiff at length and also gone through the judicial file very carefully.

5. In brief, history of this case is that during the execution proceedings of partition decree, the parties have compromised the matter with each other and have executed a compromise deed which is on file. The statements of both the parties with regard to compromise have also been recorded in the Court. As per the compromise, the parties have agreed that decree holder Joginder Singh shall be given 5 marlas of land in khasra number 54 on the backside of the constructed portion which is in possession of respondent and respondent shall also close his windows, doors and openings towards that portion of 5 marls. Alongwith compromise deed, a site plan showing the area given to Joginder Singh ABCD is also annexed. My learned predecessor directed the Halqa Kanoongo to demarcate and specify the share of Joginder Singh to the extent of 5 marlas in khasra number 54 as per the compromise. During the proceedings as per order dated 08.07.2019, the Halqa Kanoongo report was received in the Court which was made admittedly as argued by counsel for both the parties in the presence of counsel for both the parties with zareeb and area was measured.

Now after the report, the respondent has given an objection in the Court to the report of Local Commissioner that as per the site plan alongwith compromise, there is more area than 5 marlas and in fact, there is

6.75 marlas vacant plot but the Kanoongo has only depicted 5 marlas of plot. To this, learned counsel for the decree holder has argued that the site plan annexed with the compromise is prepared by an advocate and does not show the true picture. However, both the parties are still bound by the compromise. Therefore, at this stage, I consider that to further rule out any ambiguity, the Halqa Kanoongo is directed to again visit the spot and take the photographs as well as to affix the points of the area to be given to Joginder Singh upto 5 marlas as per the compromise adjacent to the constructed portion alongwith 11 feet rasta having front. He is also directed to clear the total vacant area at the spot and give his report in the Court within one month. He is directed to give prior notice to both the parties and their counsels. His fees is assessed to be Rs. 2000/- to be paid by the objector. The objections are disposed of accordingly. Report be awaited for 31.08.2021. Separate notice to Halqa Kanoongo be also issued to comply with the directions within the time frame.

Pronounced in open court.

Date of Order: 30.07.2021

JW: Parvinder Singh Ghuman

Nidhi Saini,
CJ(JD)/JMJC, Kharar
UID No. PB-0382

EXE-120-19

Joginder Singh vs Tarsem Singh

Present: Sh. TC Gupta, Advocate for the DH
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JD No. 3

Vide my separate detailed order of even date, the objections
filed by the JD have been disposed of. Now to come up on 31.08.2021
awaiting report of Local Commissioner.

Date of Order: 30.07.2021

JW: Parvinder Singh Ghuman

Nidhi Saini,
CJ(JD)/JMIC, Kharar
UID No. PB-0382