

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No. 4874 of 2015 (O&M)

Date of decision : 5.8.2015

Charan Singh and another

... Petitioners

vs

Sumit Mittal and others

.. Respondents

Coram : Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. Manoj Kumar Sood, Advocate for the petitioners.

Rajesh Bindal, J.

Challenge in the present petition is to order dated 13.2.2015, passed by learned Civil Judge (Junior Division), Faridabad, whereby application filed by the petitioners for appointment of Local Commissioner, was rejected.

Learned counsel for the petitioners submitted that appointment of Local Commissioner was required for just and proper decision of the issue in dispute as he would have reported the identity of the property. After considering the contention raised by both the parties, learned trial Court rejected the application by observing that no Local Commissioner can be appointed to collect evidence. He further submitted that appointment of Local Commissioner would be material for the purpose of decision of the controversy as he would have given a detailed report of the factual position at the site, which would have made clear that as to whether the stand taken by the petitioners or the respondents was correct.

After hearing learned counsel for the petitioners, I do not find any merit in the contention raised. A Division Bench of this Court in Pritam Singh and another vs Sunder Lal and others 1990 (2) Punjab Law Reporter 191 has categorically held that order refusing to appoint a Local Commissioner does not decide any issue nor adjudicate rights of the parties for the purpose of the suit and no revision against that was held to be maintainable. Learned counsel for the petitioners has not been able to cite

any judgment taking a view contrary. A Single Bench of this court in *Hari Om vs Manish Kumar*, 2005(2) HRR 246 also dismissed Revision Petition filed by the petitioner therein challenging the order refusing to appoint Local Commissioner. The same view was followed in *Sumer Chand Jain vs Vishnu Bhagwan Mangla* 2006 (2) R. C. R. (Civil) 445, *Bant Singh alias Balwant Singh and another vs Raghubir Singh and others* 2008 (4) RCR (Civil) 260; *Rajiv Kumar Batra vs Kashmiri Lal Sika*, 2010 (6) R. C. R. (Civil) 37; and *The Bassi Arkh Scheduled Caste Coop.Land Owing Society Limited vs Atma Singh son of Bachan Singh and others* 2011 (4) PLR 164.

As a petition challenging an order declining to appoint a local commissioner is not maintainable, hence, the same is dismissed.

5.8.2015

vs.

(**Rajesh Bindal**)
Judge