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

Civil Revision No.2121 of 2016

Date of Decision: 29.07.2016

DALEL SINGH

.....Petitioner

Vs

SAME RAM AND ORS

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Vikrant Hooda, Advocate
for the petitioner.

RAJ MOHAN SINGH, J.(Oral)

[1]. Petitioner seeks quashing of order dated 29.10.2015 passed by Civil Judge (Junior Division), Rohtak vide which an application for appointment of Local Commissioner was dismissed.

[2]. The prayer for appointment of Local Commissioner was made to ascertain the factum of actual physical cultivating possession of the plaintiffs over the land and also to certify the fatum of standing crop sown by the plaintiffs.

[3]. The prayer in the application was declined by the trial Court on the premise that the process of the Court cannot be utilized to collect evidence on behalf of either of the party.

Parties are at liberty to adduce oral as well as documentary evidence to prove their respective cases.

[4]. In **Harvinder Kaur and another vs. Godha Ram and another, 1979 AIR (Punjab) 76**, the Division Bench of this Court held after deliberating on the issue that no revision would lie against an order passed under Order 26 Rule 9 CPC. The view taken in **M/s Mohinder Kumar Rajinder Parkash Dalmir Singh @ Dalmira and Mangal Singh and another vs. Piara Lal, 1971 PLR 531** was reiterated.

[5]. Subsequently in **Pritam Singh and anr. vs. Sunder Lal and Ors., 1990 PLJ 418**, the same view was reiterated and it was held that the order refusing to appoint Local Commissioner does not decide any issue, nor adjudicates rights of parties for the purpose of suit and, therefore, the said order is not revisable. Refusing to appoint Local Commissioner has nothing to do with the rights of parties and it is within the discretion of the Court and no right in favour of parties flows from it.

[6]. The aforesaid view was again reiterated in **Sumer Chand Jain vs. Vishnu Bhagwan Mangla 2006(2) RCR (Civil) 445; Hari Om vs. Minish Kumar, 2005(2) PLR 690; Balbir Kaur and others vs. Pushpa Widge and others, 2006(2) RCR**

(Civil) 318; Rajiv Kumar Batra vs. Kashmiri Lal Sika,
2010(6) RCR (Civil) 37 and Rambir Singh vs. Gram
Panchayat, Narhera and others, 2012(1) PLR 429, wherein
the aforesaid proposition was reiterated to hold that revision
petition is not maintainable against an order refusing to appoint
Local Commissioner.

[7]. In view of above, this Court is in agreement with the
impugned order passed by the trial Court. Consequently, there
is no merit in this revision petition and the same is accordingly
dismissed.

July 29, 2016

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(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned Yes / No

Whether reportable Yes / No