

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.5450 of 2013

Date of Decision: October 26th, 2016

Vijay Kumar alias Kaka & others

...Petitioners

Versus

Hardip Singh and others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

Present: Mr.Vivek Salathia, Advocate,
for the petitioners.

Mr.Anupam Bhardwaj, Advocate,
for respondent No.3.

AMIT RAWAL, J. (Oral)

Petitioner-defendants are aggrieved of the impugned order, whereby the application for appointment of Local Commissioner at a stage where the respondent-plaintiffs had even not lead any evidence in a suit for permanent injunction seeking restraint qua forcible interference and dispossession against the petitioner-defendants, has been dismissed.

Mr.Vivek Salathia, learned counsel for the petitioner-defendants submits that in order to cut down the protraction of the litigation, the application aforementioned was moved to ascertain the factum of respondent-plaintiffs being not in possession. No harm would be caused to the respondent-plaintiffs in this regard, so the Court below has committed illegality and perversity and the order under challenge is liable to be set-aside.

I have heard the learned counsel for the petitioner-defendants,

appraised the paper book and of the view that it is too premature for the defendants to seek appointment of Local Commissioner as the onus to prove the possession in relation to the prayer for injunction is upon the respondent-plaintiffs. They have not led any evidence. In my view, moving of the application tantamounts to proving the case of the respondent-plaintiffs, which should not have been done.

For the foregoing reasons, I am of the view that the findings of the Court below for deciding the application are perfect, legal and justified. No ground for interference is made out.

Revision petition stands dismissed.

October 26th, 2016
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No