

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No. 592 of 2016 (O&M)
Date of Decision:- 29.01.2016

Pooja

...Petitioner

Versus

Chandrawali (deceased) w/o Sarup Singh through LRs & ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present:- Mr. Jgram Singh Cooner, Advocate,
for petitioner.

SHEKHER DHAWAN, J.

Present petition under Article 227 of the Constitution of India for setting aside the impugned order dated 12.08.2015 passed by Civil Judge (Jr. Division), Gohana, District Sonapat whereby the application for appointment of Local Commissioner was dismissed.

As per learned counsel for petitioner, the real dispute is about allegation of street and to bring the factual position on the file, application for appointment of Local Commissioner was filed and that was just to bring the correct facts before the Court and not to create any evidence in her favour. The Court below took the view otherwise, which is erroneous and not according to law. So, the present petition be accepted.

Having considered the submissions made by learned counsel for petitioner, this Court is of the considered view that Court below took erroneous view on the point that appointment of Local Commissioner in such a case shall be a step for creating evidence or collecting the evidence

in favour of either party. Rather the same is for assisting the Court to appreciate the actual controversy in its correct prospective. More so, appointment of Local Commissioner and report of Local Commissioner is always subject to objections to be filed by the party opposing the report and the Court is not bound by the report of Local Commissioner. That too, after leading of evidence, which is to be appreciated after considering the submissions made by both the parties.

Resultantly the present petition is accepted and order dated 12.08.2015 (Annexure P-5) passed by Civil Judge (Jr. Division), Gohana, District Sonapat stands set aside. Court below shall order for the appointment of Local Commissioner, with usual terms and conditions of visit of Local Commissioner in view of the grounds taken in the application.

January 29, 2016

mohan

(SHEKHER DHAWAN)
JUDGE