

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

**Civil Revision No.5958 of 2016  
Date of Decision:14.9.2016**

**Jarnail Singh**

**.....Petitioner**

**Vs**

**Dial Singh**

**.....Respondent**

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

Present: Mr. Sanjiv Pandit, Advocate  
for the petitioner.

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**RAJ MOHAN SINGH, J.**

1. Petitioner has assailed order dated 25.5.2016 passed by Civil Judge (Jr. Divn.) Dasuya, District Hoshiarpur, whereby application for appointment of Local Commissioner has been rejected.

2. Plaintiff-petitioner alleged that he is owner of the land comprised in khasra No. 482, shown in red colour in the site plan. The stand of the plaintiff was denied by the defendant and he claimed that the part of land shown by the plaintiff in red

colour in the site plan, in fact, is part and parcel of the land of the defendant. Plaintiff-petitioner sought appointment of Local Commissioner in order to clinch the matter by way of submitting report after demarcation whether property shown in the site plan was part and parcel of khasra No.482 and whether part of it has been encroached upon by the defendant. Petitioner claims that the appointment of Local Commissioner will not prejudice the right of the parties in any manner, rather would help the Court in arriving at just conclusion.

3. The application was opposed by the defendant-respondent.

4. The trial Court dismissed the application vide impugned order dated 25.5.2016.

5. I have heard learned counsel for the petitioner to some extent and have also perused the material on record.

6. It is a settled principle of law that the order declining to appoint Local Commissioner does not in any way decide substantive right of the parties. Such order is not revisable in nature and, therefore, present petition is not maintainable.

7. In **Harvinder Kaur and another vs. Godha Ram and another**, 1979 AIR (Punjab) 76, the Division Bench of this Court ruled that an order passed during the course of the suit proceedings would be revisable only when it determines or adjudicates some right or obligation of the parties in controversy.

A revision would lie against an interlocutory order only, if it determines or adjudicates some right or obligation of the parties in controversy. Even after satisfaction of the aforesaid test, the power of revision would be exercisable by the Court subject to limitations put under sub-Section (1) and the proviso to Section 115 CPC. After deliberating upon the issue, the Division Bench of this Court held no revision would lie against an order passed under Order 26 Rule 9 CPC and the view taken in **M/s Mohinder Kumar Rajinder Parkash Dalmir Singh alias Dalmira and Mangal Singh and another vs. Piara Lal, 1971 PLR 531** was reiterated.

8. The aforesaid view was again reiterated in another Division Bench judgment of this Court in **Pritam Singh and anr. vs. Sunder Lal and Ors., 1990 PLJ 418**. It was held in the said ruling that order refusing to appoint Local Commissioner does not decide any issue, nor adjudicates rights of parties for purpose of suit and, therefore, not revisable. Refusing to appoint Local Commissioner has nothing to do with the rights of the parties. It is the discretion of the Court and, if such discretion is refused, not right of the parties prejudiced and revision is not competent against such an order.

9. In **Sumer Chand Jain vs. Vishnu Bhagwan Mangla** **2006(2) RCR (Civil) 445**, this Court while interpreting the earlier precedents held that the revision petition was not maintainable

under Section 115 CPC, then by mere change in the headnote of the petition, the substance cannot be replaced to wriggle out from the rigors of law. Such an order cannot be interfered with even under Article 227 of the Constitution of India. The reposition held in **Hari Om vs. Minish Kumar, 2005(2) PLR 690** was reiterated to hold that by mere change in the headnote of the petition the subject matter cannot be allowed to be wriggled out from the rigor of the law, which is otherwise well settled in view of consistent view of the Court.

10. In **Balbir Kaur and others vs. Pushpa Widge and others, 2006(2) RCR (Civil) 318** similar view was taken by this Court by holding that revision petition under Article 227 of the Constitution of India is not maintainable against an order refusing to appoint Local Commissioner.

11. In **Rajiv Kumar Batra vs. Kashmiri Lal Sika, 2010 (6) RCR (Civil) 37**, similar view was taken on the basis of consistent views taken by this Court in the previous precedents. Similarly in **Rambir Singh vs. Gram Panchayat, Narhera and others, 2012(1) PLR 429**, it was held that revision petition under Article 227 of the Constitution of India and under Section 115 CPC against the order dismissing the application for appointment of Local Commissioner is not maintainable.

12. In view of aforesaid, I do not find any substance in the contention raised by learned counsel for the petitioner. This

revision petition is found to be totally devoid of merits and the same is accordingly dismissed.

**(RAJ MOHAN SINGH)  
JUDGE**

**September 14, 2016**

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Whether Reasoned/Speaking Yes/No  
**Whether Reportable Yes/No**