

Civil Revision No. 6106 of 2013

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

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Civil Revision No. 6106 of 2013

Date of Decision: August 11, 2016

AMARJIT SINGH

-PETITIONER

VS

PIARA SINGH AND ORS

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Rakesh Kumar, Advocate
for the petitioner.

Mr. Prateek Pandit, Advocate
for respondents No.3 to 6.

None for respondents No.1,2,7,8,9,11 to 13&15.

RAJ MOHAN SINGH, J. (ORAL)

Learned counsel for respondents No.3 to 6 states that
respondents No.10, 14 and 16 are only proforma respondents.

This revision petition has been filed against the order

dated 12.03.2013 passed by Civil Judge (Sr. Divn.), Kapurthala whereby prayer for appointment of Local Commissioner was declined.

Learned counsel for respondents No.3 to 6 contends that revision against the order, declining the appointment of Local Commissioner is not maintainable.

Local Commissioner was sought to be appointed for the purposes of ascertaining the encroachment by the defendants over the suit property. Earlier demarcation was conducted and defendants were allegedly found to be in illegal possession. The claim of the defendants was that the demarcation was not binding upon them.

Trial Court after giving due consideration to the rival pleas held that the Local Commissioner cannot be appointed. By way of getting the Local Commissioner appointed, plaintiff wanted to ascertain as to who is in possession of the encroached area. Local Commissioner cannot be utilized to facilitate either of the party to establish case in its favour nor the process of the Court can be

utilized to collect evidence for either of the party. The parties to the litigation are bound to lead their own evidence in affirmative.

It is a settled principle of law that the order declining appointment of Local Commissioner is not a revisable order. In **Harvinder Kaur and another vs. Godha Ram and another, 1979 AIR (Punjab) 76**, the Division Bench of this Court held that the order would be revisable only when it determines or adjudicates some right between the parties. Revision would lie only if the interlocutory order decide some right or obligation of the parties in controversy. Ultimately, it was held that no revision is maintainable against the order of declining Local Commissioner in terms of Order 26 Rule 9 CPC. The said view was reiterated in **M/s Mohinder Kumar Rajinder Parkash Dalmir Singh alias Dalmira and Mangal Singh and another vs. Piara Lal, 1971 PLR 531.**

The point in issue was also deliberated in subsequent judgments vis **Pritam Singh and anr. vs. Sunder Lal and Ors., 1990 PLJ 418, 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.

I find no exception to the rule that revision is not maintainable against the order of declining of appointment of Local Commissioner in terms of Order 26 Rule 9 CPC.

Accordingly, this revision petition is dismissed.

11.08.2016

(RAJ MOHAN SINGH)

jyoti Y.

JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No