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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-7480-2015

Date of Decision : February 18th, 2016

Ramesh Bajaj

.... Petitioner

Versus

State of Haryana and others

.... Respondents

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present Mr.Ankit Aggarwal, Advocate,
for the petitioner.

Mr. Ankur Mittal, Addl.A.G., Haryana.

SHEKHER DHAWAN, J.

Present revision petition under Article 227 of the Constitution of India is challenge to the order dated 12.10.2015 (Annexure P-1) whereby an application for issuing survey commission to demarcate the land pertaining to Khasra No.317 and house of the plaintiff pertaining to Khasra No.279 of village Bainsi, was dismissed.

2. Learned counsel for the petitioner mainly submitted that the prayer was made for demarcation of the land and that has been declined by the Court below without considering the fact that the matter in controversy involves location and demarcation of the property itself which can be done by demarcation only and as such the present petition be

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allowed and the order dated 12.10.2015 be set aside and Local Commissioner be appointed to demarcate the suit land. In support of his arguments, learned counsel for the petitioner has placed reliance upon judgments from Co-ordinate Benches of this Court in **Deepak Narula Vs. Shri Satruhan Dwivedi and others, 2014(2) PLR 167, Fateh Singh Saini Vs. State of Haryana and ors., 1987 R.R.R.411, Ram Narayan and others Vs. Ramesh and others, 2014(4) Law Herald 3634 and Ran Singh and another Vs. Jagir Singh etc., 2015(2) PLR 42.**

3. Learned counsel for the respondents submitted that the order passed by the Court below refusing to appoint Local Commissioner cannot be challenged by way of revision petition. On this point, reliance was placed upon Division Bench decision of this Court in **Pritam Singh and anr. Vs. Sunder Lal and ors., 1991(1) R.R.R.356, Harvinder Kaur and another Vs. Godha Ram and another, 1979 HLR 30.** Reliance was also placed upon judgments from co-ordinate Benches of this Court in **Harwinder Kumar Vs. Nasib Singh and others, 2015(2) Law Herald 1727, Harbhajan Singh and another Vs. Gumail Singh & others, 2015 (2) Law Herald 1089 and Raj Singh and others Vs. Mukhtiar Singh, 2015 (2) Law Herald 1095.**

4. Having considered the submissions made by learned counsel for the parties, this Court is of the considered view that there are two angles to decide the present revision petition. First of all, present revision petition against the order for refusal to appoint Local Commissioner is primarily against the discretion and domain of the Court below and revision against such an order is not maintainable as per the view taken by this Court in **Harwinder Kumar's case (supra) and Harbhajan Singh's case (supra).**

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5. While proceeding further, this Court is of the considered view that in certain cases involving demarcation of the property, sometimes it becomes essential to appoint Local Commissioner for the purpose of demarcation and if the Court below fell in error while deciding such an application and this Court also refuses to invoke its revisional jurisdiction in such like matters, that would be matter of grave injustice.

6. Looking from that angle also and coming to the facts of the present case, this Court is of the considered view that the Court below has rightly observed that there was report of demarcation available on the file and that demarcation was done by Halqa Kanungo on 28.01.2014. Present petitioner has options either to accept the demarcation or file objections against the report of Local Commissioner or to summon the said Halqa Kanungo as a witness for his cross-examination. There is no purpose in getting the land demarcated again and again thereby complicating the matter before the Court below on the basis of different reports regarding demarcation. The Court below has rightly exercised the discretion while deciding the application for appointment of Local Commissioner.

7. The present revision petition is not maintainable and the same stands dismissed being devoid of merit.

(SHEKHER DHAWAN)
JUDGE

February 18th, 2016
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