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

Civil Revision No.7728 of 2016

Date of Decision: 17.11.2016

Raj Kumar

.....Petitioner

Vs

Makhan Lal and others

.....Respondents

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

Present: Mr. Amandeep Singh Manaise, Advocate
for the petitioner.

RAJ MOHAN SINGH, J.

[1]. Petitioner/defendant No.2 has challenged order dated 28.09.2016 passed by Civil Judge (Jr. Divn.), Jalalabad (West) vide which application for proving the report of Local Commissioner by way of additional evidence was dismissed.

[2]. In the proceedings under Order 39 Rule 2-A CPC, defendant No.2 Raj Kumar filed the application to prove the report of Local Commissioner namely Sh. Sham Lal Handa, Advocate by leading additional evidence. It was asserted that in the context of alleged disregard shown against the order of *status quo* dated 18.05.2013, the report of Local Commissioner became necessary to be proved.

[3]. I have heard learned counsel for the petitioner.

[4]. Evidently, the main suit has already been disposed of. Only proceedings in terms of Order 39 Rule 2-A CPC survives. In the main suit, number of opportunities were granted to the petitioner/defendant No.2 and he closed his evidence. The case was fixed for arguments. The application in question was moved at a belated stage. The report of Local Commissioner was placed on record. The same was prepared on 20.05.2015.

[5]. In the main case, the report of Local Commissioner was not proved with reference to evidence. Death of Fauja Singh had nothing to do with the production of said report as Fauja Singh had expired on 10.06.2016 after leading the evidence in the year 2015. The relevancy of death viz-a-viz. non production of report could not be explained. Even the report in terms of its para no.3 was inconclusive with regard to determination whether any pipe was removed from the said passage or not. The expression given in the report itself would not make the same conclusive and relevant.

[6]. The report itself was not exhibited on record, nor proved by way of any witness. Since the main case has already been withdrawn, therefore, reliance placed on such report and effort to lead additional evidence would lead to nowhere.

[7]. In view of aforesaid, no error of jurisdiction can be pointed out in the impugned order dated 28.09.2016 passed by the Civil Judge (Jr. Divn.) Jalalabad (West). This revision petition is accordingly dismissed.

November 17, 2016

Atik

**(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned

Yes / No

Whether reportable

Yes / No