

HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT CHANDIGARH

CR No.1970 of 2016 (O&M)

Date of decision: 20.3.2017

Daljit Kaur

...Petitioner

Versus

Gurmeet Singh and another

...Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Ashok Goel, Advocate for the petitioner

RAMESHWAR SINGH MALIK, J. (Oral)

Present revision petition, at the hands of defendant No. 1, is directed against the order dated 17.02.2016 passed by the learned trial court, whereby application of the plaintiff under Order 26 Rule 9 CPC read with Section 151 CPC for appointment of Local Commissioner was allowed and a building expert was appointed as Local Commissioner.

Notice of motion was issued.

Heard learned counsel for the petitioner.

A bare perusal of the impugned order passed by the learned trial Court would show that the person who has been appointed as Local Commissioner is a building expert. Further, learned trial Court has issued specific directions to the Local Commissioner, to go to the site and inspect the same. The Local Commissioner, being an expert, shall submit his report to the learned Court which shall facilitate it to arrive at a judicious conclusion, with a view to do complete and substantial justice between the parties. Having said that, this Court feels no hesitation to conclude that the learned trial court was well within its jurisdiction to pass the impugned order and the same deserves to be upheld.

dispute the fact that in the order passed by Hon'ble the Supreme Court in ***Rajinder & Co. vs. Union of India and others, 2003(1) RCR(Civil) 755*** and also the judgment of this Court in ***Parveen Bhatia and another vs. Shree Baidyanath, 2004(3) PLR 145***, it is settled and goes without saying that whatever report shall be submitted by the Local Commissioner, shall be examined and appreciated by the learned trial Court. Its evidentiary value shall also be considered by the learned trial Court, at the appropriate stage. Further, no prejudice of any kind is likely to be caused to the petitioner by passing the impugned order.

Further learned counsel for the petitioner could not point out any patent illegality or perversity in the impugned order, which may warrant interference at the hands of this Court, while exercising its revisional jurisdiction under Article 227 of the Constitution of India. The impugned order has been found based on true facts and circumstances of the case. The report of the building expert would be properly examined because it would be facilitating the learned trial Court to arrive at a just decision.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that present revision petition is misconceived, bereft of merit and without any substance. Thus, it must fail. No case for interference has been made out.

Resultantly, with the abovesaid observations made, instant revision petition stands dismissed, however, with no order as to costs.

20.3.2017
reena

(RAMESHWAR SINGH MALIK)
JUDGE

Whether Speaking/reasoned : Yes/No

Whether Reportable : Yes/No