

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No. 1729 of 2017

Date of decision:- March 10, 2017

VEER SINGH

....PETITIONER..

VERSUS

PANJA SINGH

....RESPONDENT..

CORAM:- HON'BLE MR. JUSTICE JASPAL SINGH

Present:- Mr. S.C. Sabharwal, Advocate,
for the petitioner.

JASPAL SINGH, J.

Challenge in the instant revision petition preferred under Article 227 of the Constitution of India is to the order dated 21.11.2016 (Annexure P-2) passed by Civil Judge Junior Division, Ferozepur whereby an application filed by the petitioner-plaintiff under Order XXVI Rule 9 of the Code of Civil Procedure (for brevity, "CPC" only) for appointment of Local Commissioner has been dismissed.

2. The contention of learned counsel for the petitioner is that the respondent-defendant has planted *eucalyptus* tree touching the northern and western wall of the residential house of the petitioner, which is likely to cause loss and damage, not only to the residential house but to the family members also. In order to bring the clear picture with regard to the existence of *eucalyptus* tree, the appointment of Local Commissioner is essential. Thus, the impugned order declining the appointment of Local Commissioner is against the basic principles governing the appointment of

Local Commissioner.

3. This Court has given a deep thought to the aforesaid submissions made by learned counsel for the petitioner but find the same to be of without any legal and factual weight.

4. Firstly, it would be appropriate to mention here that the instant revision petition is not maintainable. By now, it is well settled proposition of law that against the order of refusing the appointment of local commissioner, no revision either under Section 115 CPC or under Article 227 of the Constitution of India is maintainable. To fortify this observation, we can have the reference of the judgments delivered in cases captioned as ***“Harvinder Kaur and another vs. Godha Ram and another”***1979 AIR (Punjab) 76, ***“Pritam Singh and another vs. Sunder Lal and ors”*** 1990(2) PLR 191 and ***“Sham Lal vs. Sumitra Devi, 2016(3) PLR 324”***.

6. Even otherwise, it is well settled proposition of law that no Local Commissioner can be appointed to assist a party to collect evidence to establish its case.

7. Thus, this Court is of the considered view that application for appointment of Local Commissioner has rightly been declined by ld. trial court. There is no infirmity or illegality in the impugned order dated 21.11.2016 (Annexure P-2), which is otherwise absolutely inconsonance with the settled canons of law.

8. Dismissed.

March 10, 2017
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned: Yes

Whether reportable: Yes/No