

IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

211

CR No.2670 of 2014

Decided on : 21.02.2017

Amrik Singh

... Petitioner

Versus

Gulab Singh

.. Respondent

CORAM : HON'BLE MR.JUSTICE G.S.SANDHAWALIA

Present : None for the petitioner.

G.S.Sandhawalia, J. (Oral)

The respondent remains un-served on account of time being given to furnish the correct address. Liberty was given on 11.12.2014, thereafter, also on 11.5.2015 and 18.05.2016. As per the office report, the same has not been done.

Challenge in the revision petition by the landlord is to the non-appointment of a Local Commissioner by the Rent Controller. The said order, even on merits, is not revisable in view of the judgment passed by Division Bench of this Court in case Pritam Singh and another Vs. Sunder Lal and others, 1990 (2) PLR 191. The relevant para of the said judgment is hereby reproduced as under:-

“6. After getting through the Judgments cited in the reference order, we do not find that the earlier Judgment in Harvinder Kaur's case (supra) requires any re consideration. The order refusing to appoint a local commissioner does not decide any issue, nor adjudicates rights of the parties for the purpose of the suit and is, therefore, not revisable. The distinction sought to be made by the learned Single Judge in view of the Judgment in M/s Sadhu Ram Bali Ram's case (supra) was clearly noticed by the Division Bench in Harvinder Kaur's case (supra) and it was observed :-

"It may be observed that the facts of M/s Sadhu Ram Bali Ram's case were different as in that case the onus of an issue had been wrongly placed and while deciding that question, it was held that such an order would be revisable."

Apart from that, placing the onus of an issue has something to do with the rights of the parties whereas refusing to appoint a Commission under Order 26, Rule 9, Code of Civil Procedure, has nothing to do with the rights of the parties as such. It is the discretion of the Court to appoint a Commission there under and if the Court refuses to appoint a Commission, then no right of any party can be said to be prejudiced as such."

In view of the judgment passed by the Division Bench of this Court, this revision petition is dismissed on merits.

[G.S.Sandhawalia]
Judge

21.02.2017
sd

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No