

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Revision No.3384 of 2017 (O&M)
DECIDED ON: May 15, 2017

BHIM SAIN AND ANOTHER

.....PETITIONERS...

VERSUS

PURUSHOTAM DASS AND OTHERS

....RESPONDENTS...

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Dr. Surya Parkash, Advocate
for the petitioners.

JASPAL SINGH, J. (Oral)

CM-10919-CII-2017

Application is allowed. Documents (Annexures P-11 and P-12) are taken on record, subject to all just exceptions. Be tagged at the appropriate place.

CM stands disposed of.

Main case

By virtue of instant petition preferred under Article 227 of the Constitution of India, the petitioner has sought setting aside of order dated 28.03.2017 (Annexure P-1) passed by Id. Additional District Judge, Fatehabad whereby an application filed by the petitioner under Order XXVI Rule 9 CPC for appointment of Local Commissioner and demarcation of the land has been dismissed.

2. By virtue of impugned order dated 28.03.2017, the ld. Additional District Judge, Fatehabad has declined the appointment of Local Commissioner under Order XXVI Rule 9 CPC. By now, it is pretty settled that no revision against the order declining to issue a Commission for any of the purpose enumerated in Order XXVI Rule 9 CPC, is competent as order refusing to appoint Local Commissioner neither decides any issue nor adjudicates the rights of the parties for the purpose of the suit. To fortify this observation, we can have the reference of the pronouncements 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”***. Thus, the instant revision is not maintainable and stands dismissed on this score alone.

3. However, while parting with this order, it is made clear that any findings/observations recorded by the ld. Additional District Judge, Fatehabad in the impugned order dated 28.03.2017 shall have no bearing on the main suit which shall be dealt with and disposed of by the trial court independently on the basis of evidence without being influenced therefrom.

4. With the aforesaid observation, the instant petition is dismissed.

May 15, 2017
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned: Yes

Whether reportable: Yes/No