

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No.3818 of 2017
Date of Decision: 13.07.2017

Sita Ram

...Petitioner

Vs.

Gauri Shanker and others

...Respondents

CORAM:-HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. Sanjay Mittal, Advocate,
for the petitioner.

RAJIV NARAIN RAINA, J. (Oral)

There is a umpteen case law of this Court on the point in issue raised in this petition which has to be answered against the petitioner. The judgments relied upon at the stage when the matter came up for hearing on 25.05.2017 before the Coordinate Bench were found not applicable to the facts of the present case as the precedents cited involved disputes regarding encroachment over property, which is not the issue in the present case. The interim order is reproduced below:-

“Counsel for the petitioner cites Haryana Waqf Board v. Shanti Sarup and others, 2008(8) SCC 671, Banarsi Dass v. Sardha Ram and others(Civil Revision No.235 of 2015, decided on 14.09.2015), Hawa Singh v. The Secretary, Municipal Committee Kharkhoda, District Sonapat and others (Civil Revision No.3299 of 2016, decided on 25.05.2016), Deepak Narula v. Shri Satruhan Dwivedi and others(Civil Revision No.2437 of 2013, decided on 24.10.2013), Krishan Lal v. Avinash Chand @ Avinash Kumar and another (Civil Revision Nop.8818 of 2015, decided on 25.05.2016, Radhey Shyam Rastogi v. Ashish Kumar and another, 2008(4) RCR(Civil), 642, and Roshan Lal v. Jai Singh and others, 2015(4) RCR(Civil) 1032, which are not applicable to the facts of the present case as in the above cases there was dispute of encroachment

which is not in the present case.

Counsel for the petitioner seeks adjournment.

Adjourned to 13.07.2017.”

In Pritam Singh and another v. Sunder Lal and others, 1990 (2) PLR 191: 1990 PLJ 418: 1991(1) RRR 356: 1990(2) LJR 244, a Division Bench of this Court by relying upon an earlier decision of this Court rendered in Harvinder Kaur v. Godha Ram, ILR 1979(1) Punjab and Haryana 147 has observed that no revision would lie against an order passed under Order 26 Rule 9 of the Code of Civil Procedure declining appointment of a local commissioner. See also Bant Singh alias Balwant Singh and another v. Raghubir Singh and others, 2008(4) RCR (Civil) 260:2008(2) RCR (Rent) 297 and Rajiv Kumar Batra v. Kashmiri Lal Sika, 2010(6) RCR (Civil) 37 holding that revision does not lie.

Hence, discretion exercised by learned trial Court cannot be criticized or interfered with by this Court in its revisional jurisdiction, either under Section 115 of the Code of Civil Procedure or through the supervisory role provided by Article 227 of the Constitution of India.

In view of the aforementioned facts, it cannot be said that any illegality or material irregularity has been committed by learned trial Court in passing the impugned order or that a grave prejudice or gross failure of justice has occasioned thereby warranting interference by this Court.

No ground for interference is made out.

No merit. Dismissed on maintainability.

(RAJIV NARAIN RAINA)
JUDGE

13.07.2017

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Whether speaking/reasoned

Yes

Whether reportable

No