

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-4810-2017

Date of Decision:- 26.07.2017

Charan Dass

.....Petitioner

Versus

Hardev Singh and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Avtar Singh Bhatti, Advocate, for the petitioner.

RITU BAHRI, J. (Oral)

Present revision petition under Article 227 of the Constitution of India for quashing of order dated 08.05.2017, passed by learned Civil Judge (Jr. Divn.), Mukerian, District Hoshiarpur whereby an application, filed by defendant No.2/petitioner under Order 151 CPC for allowing him to file reply to the application under Order 26 Rule 9 CPC, has been dismissed.

As is evident from the record that learned Civil Judge (Jr. Division), Mukerian, after taking into consideration the facts and all the contentions pertaining to appreciation of evidence, has dismissed the application filed by petitioner/defendant No.2, by virtue of order dated 08.05.2017, which in substance is as under: -

“Perusal of the file reveals that on dated 20.03.2014 the

defendants have proceeded against exparte as the Ld. Counsel for the defendants pleaded no instruction from defendants. Thereafter, after taking into account the written statement of the defendants, wherein it has been categorically stated by the defendants that they have no objection, if the demarcation is conducted by any revenue expert. So, in view of the pleadings regarding appointment of Local Commissioner my Ld. Predecessor Court has appointed the Local Commissioner to demarcate the suit property who has submitted the report, which is already on the file. In the report Ex.P2, it has been categorcially stated that defendants Kewal Singh, Charan Dass and Prem Kumar were duly intimated regarding the demarcation, but they refused to sign the Itlah Nama and thereafter the demarcation was conducted and the report furnished by the Local Commissioner. Even though, the exparte proceeding initiated against the defendant no.2 were set aside and defendant no.2 was allowed to join the proceeding, but the order with regard to the appointment of Local Commissioner consequently report submitted by the Local Commissioner was appointed after taking into account the pleading with regard to no objection regarding appointment of Local Commissioner to demarcate the suit property. Since the report has already been submitted by the Local Commissioner after demarcating the suit property. So, if the defendant no.2 has any objection regarding the Local Commissioner, then he can file the objection. So, therefore, the application in hand is devoid of any merit same stands dismissed.”

After arguing for some time, learned counsel for the petitioner restricts his prayer only regarding filing of objections to the Local Commissioner report.

Keeping in view the above-said fact, the present revision petition is hereby disposed of by giving liberty to the petitioner to file objections to the Local Commissioner report.

July 26, 2017
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(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No