

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision: 03.08.2017

1. CR No.5101 of 2017 (O&M)

Shadi Ram and others

... Petitioners

Vs.

Karan Mittal and others

... Respondents

2. CR No.5106 of 2017 (O&M)

Shadi Ram and others

... Petitioners

Vs.

Rakesh Mittal and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Manoj Makkar, Advocate
for the petitioners.

RAMESHWAR SINGH MALIK, J. (ORAL)

These two identical civil revision petitions are being decided together vide this common order, as the same are arising out of similar but separate orders passed by the learned trial Court. However, for the facility of reference, facts are being culled out from CR No.5101 of 2017 (Shadi Ram and others Vs. Karan Mittal and others).

Feeling aggrieved against the order dated 01.07.2017, whereby

application of the plaintiffs filed under Order XXVI Rule 9 of the Code of Civil Procedure for appointment of Local Commissioner was declined by the learned trial Court, they have approached this Court by way of these two civil revision petitions under Article 227 of the Constitution of India, for setting aside the impugned orders.

Heard learned counsel for the petitioners in both the cases.

A bare perusal of the impugned orders passed by the learned trial Court would make it crystal clear that a factually correct and legally justified approach was adopted by the learned trial Court, while passing the impugned orders. Law laid down by this Court was rightly followed. It was held that the plaintiffs are not entitled to seek assistance of the Court in collecting the evidence, so as to prove their pleaded case. Having said that, this Court feels no hesitation to conclude that the learned trial Court was well within its jurisdiction to pass the impugned orders and the same deserve to be upheld.

During the course of hearing, when learned counsel for the petitioners was confronted as to whether the plaintiffs-petitioners were without any remedy, he had no answer and rightly so, it being a matter of record. In fact, the plaintiffs-petitioners would have no difficulty in improving their case with the help of relevant revenue record and revenue officials, if they so desire. Under these circumstances, it can be safely concluded that the learned trial Court rightly declined the application of the petitioners for appointing a Local Commissioner, because that would have been amounted to collect the evidence for the plaintiffs. Thus, no fault can be found with either of the impugned orders and the same deserve to be upheld, for this reason also.

Learned counsel for the petitioners could not point out any patent

illegality or perversity in either of the impugned orders passed by the learned trial Court, which may warrant interference at the hands of this Court, while exercising its revisional jurisdiction under Article 227 of the Constitution of India. In fact, the impugned orders passed by the learned trial Court have been found based on sound reasons, because of which the impugned orders deserve to be upheld, for this reason as well.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that since no illegality has been found in either of the impugned orders passed by the learned trial Court, the same deserve to be upheld. Both the revision petitions having been found wholly misconceived, bereft of merit and without any substance, must fail. No ground for interference has been made out.

Resultantly, with the abovesaid observations made, both the abovesaid revision petitions stand dismissed, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

03.08.2017
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No