

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.5704 of 2017 (O&M)

Date of Decision: 11.09.2017

Surinder Kumar and others

... Petitioners.

Versus

Jatinder Singh Sambi and another

... Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Sanjiv Gupta, Advocate,
for the petitioners.

ANIL KSHETARPAL, J. (ORAL).

Defendants are in revision petition against the order dated 19.05.2017 passed by the trial Court refusing to appoint the Local Commissioner under Order 26 Rule 9 CPC.

Two Division Benches of this Court have held in *Smt. Harvinder Kaur and another Vs. Godha Ram and another*, 1979 PLJ, 562 and *Pritam Singh and another Vs. Sunder Lal and others*, 1990(2) PLR 191 that revision petition against the order refusing to appoint the Local Commissioner is not maintainable.

Learned counsel for the petitioners has cited the judgement passed by the single Judge of this Court reported as *Om Parkash Vs. Kishan Chand and others*, 1997(1) PLR 248 to contend that the revision petition was held to be maintainable against the order refusing to appoint the Local Commissioner.

I have examined the aforesaid judgement passed by the learned

single Judge of this court.

In the aforesaid case, this Court had held that the application was not for appointment of the Local Commissioner. Relevant extract of the order passed is as under: –

“7. So far as the maintainability of the revision is concerned, plaintiff-petitioner did not file the petition under Order 26 Rule 9, Civil Procedure Code, simpliciter to make a local investigation with regard to any matter in dispute or of ascertaining the market value of any property or amount of any mesne profits or damages or annual net profits etc. In this case, the plaintiff-petitioner filed the said application under Section 151 read with Order 26 Rule 9, Civil Procedure Code, praying that a Local Commissioner be appointed to lock the demised premises. Hence, it was not a petition in the strict sense of the terms under Order 26 Rule 9 Civil Procedure Code, but the inherent jurisdiction of the Court was invoked to pass such an order. Hence, in my considered view, the revision against the impugned order is maintainable.”

Learned counsel for the petitioner has further brought to my notice certain orders passed by this Court wherein the revisions have been entertained against the order refusing to appoint the Local Commissioner.

I have carefully read the aforesaid orders. The judgement passed by the two Division Benches of this Court, referred to above, were not brought to the notice of the Court.

In view of what has been discussed above and keeping in view

the judgements passed by the two Division Benches of this Court in *Smt. Harvinder Kaur's case* and *Pritam Singh's case (supra)*, the revision petition is held to be not maintainable and the same is dismissed.

11.09.2017
sk

(ANIL KSHETARPAL)
JUDGE

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