

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH**

CR No.6446 of 2016

Date of decision:31.1.2017

Hemender Kumar @ Happy

...Petitioner

Versus

Prem Singh Rana

...Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Ms.Kiran Bala Jain, Advocate for the petitioner.
Mr.Parminder Singh Advocate for the respondent.

RAMESHWAR SINGH MALIK, J. (Oral)

Present revision petition is directed against the order dated 8.9.2016 (Annexure P-5), whereby the learned trial Court dismissed the application of the petitioner for appointment of Local Commissioner.

Notice of motion was issued.

Heard learned counsel for the parties.

A bare perusal of the impugned order would show that there is a serious dispute between the parties about the very existence of passage to their fields. Petitioner is plaintiff and respondent, who is defendant in the suit, has also filed his counter claim. Even the statement made by Shiv Parkash, Patwari (DW-4) does not make it clear as to whether the version of plaintiff is correct or that of defendant is correct.

In view of the above and to resolve the controversy, it would be in the fitness of things that Tehsildar, Gharaunda, District Karnal, is directed to inspect the site himself and furnish a record based report before the learned trial Court. Such a report shall facilitate the learned trial Court to arrive at a judicious conclusion, so as to do complete and substantial justice between the parties.

In view of the above, instant revision petition is disposed of.
Tehsildar, Gharaunda, District Karnal, is directed to carry out physical

inspection at the site after due notice to both the parties, strictly in accordance with law and as per the revenue record.

Let him conduct the inspection at the site within a period of four weeks from today and thereafter he shall furnish his report to the learned trial Court within a period of three weeks more.

Petitioner shall bear the expenses for conducting the inspection of the site by the Tehsildar. Petitioner is directed to deposit an amount of Rs.5,000/- with the Tehsildar, Gharaunda, District Karnal, within a period of one week from today.

On furnishing the inspection report about path in question by the Tehsildar within the above-said stipulated period, learned trial Court shall proceed further to decide the suit, however, in accordance with law.

It also goes without saying that the parties shall be at liberty to file their respective objections against the report furnished by the Tehsildar and the same shall be disposed of by the learned trial Court, in accordance with law.

With the above-said observations made and directions issued, the present revision petition stands disposed of, however, with no order as to costs.

31.1.2017
mks

(RAMESHWAR SINGH MALIK)
JUDGE

Whether Speaking/reasoned : Yes/No

Whether Reportable : Yes/No