

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.1310 of 2018 (O&M)
Date of decision:02.04.2018

Rupinder Singh

... Petitioner

Vs.

Gram Panchayat village Bidhipur and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Vikasdeep Singh, Advocate
for the petitioner.

AMIT RAWAL J. (Oral)

C.M.No.6640-CII-2018

The application is allowed, subject to all just exceptions. The documents, Annexures P-7 and P-8 are taken on record.

CR No.1310 of 2018 (O&M)

The present revision petition is directed against the order dated 08.02.2018 (Annexure P-6), whereby, the application filed by the petitioner-plaintiff for appointment of the Local Commissioner, was dismissed.

Mr. Vikasdeep Singh, learned counsel for the petitioner submitted that the petitioner-plaintiff instituted a suit for permanent injunction restraining the defendants from constructing the drain (nali) from

point 'A' to point 'B' forcibly and illegally as per the site plan with consequential relief of mandatory injunction directing defendants no.1 and 2 to construct the drain for throwing the waste water from point 'A' to point 'E' which shall fall at point 'F' and led the evidence in affirmative. Since the defendants disputed the same, therefore, the occasion arose to move the application aforementioned, at the stage when the defendants have closed their evidence. Though the defendants did not object to the same but the trial Court dismissed the application. The appointment of the Local Commissioner is essential and necessary to ascertain with regard to the construction of drain at the most suitable place.

I have heard the learned counsel for the petitioner-plaintiff, appraised the paper book and of the view that there is no rebuttal issue and if such application is allowed, it would tantamount to lead evidence in rebuttal. The similar application was filed by the petitioner long time back which was dismissed as withdrawn, vide order dated 23.10.2013. The petitioner could have sought the recalling of the aforementioned order at the appropriate time but not at this stage when the suit has reached at the final stage as it tantamounts to filling up the lacunae which cannot be permitted in law.

In view of the aforementioned observations, the finding of the trial Court in declining the application for appointment of the Local Commissioner is perfectly legal and justified, much less, the same cannot be said to have been passed without jurisdiction.

Accordingly, the revision petition stands dismissed.

April 02, 2018

savita

(AMIT RAWAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No