

113

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CM No.14199-CII of 2018 in/and
Civil Revision No.3227 of 2018
Date of Decision: 25.07.2018**

Ajit Singh (deceased) through his LRs

.....Petitioners

Vs

Gurcharan Singh through his LR

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Mandeep Singh Sodhi Advocate
for the petitioners.

RAJ MOHAN SINGH, J.

CM No.14199-CII of 2018

For the reasons mentioned in the application, the same is allowed. Date of hearing is preponed for today and main case is taken up today for final hearing.

Main case

[1]. This revision petition has been preferred against the order dated 18.04.2018 passed by the Addl. Civil Judge (Sr. Divn.) Kharar, whereby the application filed by the petitioners for cross-examination of Local Commissioner was dismissed.

[2]. Brief facts of the case are that report of Local Commissioner Tarsem Mittal, Tehsildar Kharar was filed on

16.03.2018. There was no objection raised by the plaintiff. Objections were raised by the defendants. The objections of the defendant were dismissed vide order dated 21.03.2018 passed by the Addl. Civil Judge (Sr. Divn.) Kharar.

[3]. Aggrieved by the aforesaid order, the defendants/petitioners filed Civil Revision No.2261 of 2018 in the High Court. Vide order dated 05.04.2018, the said revision petition was dismissed as withdrawn and the High Court observed in the following manner:

“After arguing for some time, when the Bench was no agreeing with the submissions made by learned counsel for the petitioner(s), learned counsel prays that he may be permitted to withdraw the instant petition. Ordered accordingly.”

[4]. It has been observed in the impugned order that learned counsel for the defendant argued that defendant was orally directed that he could get the Local Commissioner cross-examined, however there was no such mention in the aforesaid order passed by the High Court.

[5]. It has been further observed that in the earlier revision petition i.e. Civil Revision No.239 of 2018 which was filed by the plaintiff, wherein the order dated 22.12.2017 (vide which objections of the plaintiff regarding previous report of Local Commissioner was dismissed) was set aside by the High Court with a direction to the trial Court to permit the plaintiff to cross-

examine the Local Commissioner, who has submitted two conflicting reports, subject to payment of costs of Rs.5,000/-.

[6]. I have heard the submissions made by learned counsel for the parties.

[7]. The objections filed by the defendants/petitioners have already been dismissed by the trial Court vide order dated 21.03.2018 and the petitioners also failed to get any order from the High Court in Civil Revision No.2261 of 2018. The oral permission allegedly granted by the High Court cannot be appreciated particularly in view of the fact that the aforesaid petition was withdrawn after arguing for some time, when the Bench was not agreeing with the submissions made by learned counsel for the defendants/petitioners.

[8]. In the light of dismissal of the aforesaid revision petition, prayer made by the defendants/petitioners in my considered opinion is not legally sustainable. The trial Court has dismissed the application on legal parameters. There is no scope for interference in the present revision petition. The same is accordingly dismissed.

July 25, 2018

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No