

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 115

CR-5520-2018

Date of decision : 24.08.2018

Pavitresh Veena Salhotra and others

..... Petitioners

VERSUS

Mohan Lal (since deceased)
through LRs and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. A. P. S. Srawaan, Advocate, for the petitioners.

DEEPAK SIBAL, J. (ORAL)

The present petition is directed against the order dated 03.07.2018, passed by the Civil Judge (Junior Division), Jalandhar (for short, the Trial Court) through which Ms. Rajvinder Kaur, Advocate, who had earlier been appointed as a Local Commissioner, was directed to again visit the suit property with a direction to break open the locks. Also under challenge is the order dated 06.08.2018, passed by the Trial Court through which an application filed by the petitioners under Section 151 CPC for recalling of the aforesaid order dated 03.07.2018 was dismissed by the Trial Court.

A perusal of the record of the case reveals that on 30.06.2018 the Trial Court appointed Ms. Rajvinder Kaur, Advocate as a Local Commissioner to visit and inspect the suit property and demarcate the same to facilitate the Trial Court to pass the final judgment and decree. Such order was passed in the presence of the counsel for the petitioners. As directed, the Local Commissioner visited the suit property and then gave her report which contained postal receipts showing that she had served all the parties to the suit informing them as to when she would be visiting the suit

property. As per the report, at the time of her visit the Local Commissioner found the suit property locked. She clicked the photographs of the same and attached the same with her report. The Trial Court after considering the report, adjourned the matter after directing the Local Commissioner to again visit the suit property and inspect the same after breaking open the locks.

Learned counsel for the petitioners submits that no notice was served upon them by the Local Commissioner and on that count alone, the report is liable to be rejected. It is further submitted that the impugned orders be set aside and another date be fixed for the Local Commissioner to visit the suit property so that on that day the petitioners can remain present there.

After considering the submissions made by learned counsel for the petitioners, no merit is found in the same.

The order appointing the Local Commissioner was passed in the presence of counsel for the petitioners. The Local Commissioner, who is a practicing Advocate, has produced on record postal receipts showing therein that she had served all the parties intimating them with regard to the date and time as to when she would be going for inspection of the suit property. No objections to the report of the Local Commissioner have been filed by the petitioners. No malafides against the Local Commissioner have even been alleged by them. Thus, there is no reason to doubt the report given by the Local Commissioner.

Even otherwise, the orders impugned in the present petition are not prejudicial to the petitioners. The inspection of the suit property is yet to be done. The petitioners can now remain present at the time of inspection

and facilitate the same. If they do so there would be no occasion for the Local Commissioner to break the locks.

In view of the above, no merit is found in the present petition.

Dismissed.

24.08.2018
shamsher

[DEEPAK SIBAL]
JUDGE

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No