

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CR No.6322 of 2018(O&M)  
Date of Decision: 26.09.2018

Lachman Singh  
Versus  
Neelam Rani

.....Petitioner  
  
.....Respondents

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

Present: Mr. Rajiv Joshi, Advocate  
for the petitioner.

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**RAJ MOHAN SINGH, J.**

[1]. Petitioner has assailed the order dated 04.07.2018 passed by Additional Civil Judge (Senior Division), Phillaur whereby application filed by the defendant/petitioner for appointment of Local Commissioner was dismissed.

[2]. A suit for permanent injunction was filed by the plaintiff, restraining the defendant from interfering or dispossessing the plaintiff from the house in question. An application for appointment of Local Commissioner was filed by the defendant/petitioner, which was dismissed vide the impugned order.

[3]. I have considered the submissions made by learned counsel for the petitioner.

[4]. The issue of appointment or rejection of the Local Commissioner is not such which can be raked up under Article

227 of the Constitution of India as no substantial right of the party is decided. In case of appointment of the Local Commissioner, his report can be attacked by way of filing objections to the admissibility, veracity and genuineness of the report prepared by him and the same can be questioned before the trial Court at the appropriate stage.

[5]. It is true that no party can be allowed to take recourse to the process of the Court for collecting evidence. Once the discretion has been exercised by the trial Court either for appointment of the Local Commissioner or rejection thereof, the jurisdiction under Article 227 of the Constitution of India cannot be exercised.

[6]. The order rejecting prayer for appointment of Local Commissioner is not revisable in view of ratio of law laid down in **Harvinder Kaur and another vs. Godha Ram and another, 1979 AIR (Punjab) 76; M/s Mohinder Kumar Rajinder Parkash Dalmir Singh alias Dalmira and Mangal Singh and another vs. Piara Lal, 1971 PLR 531 and Pritam Singh and anr. vs. Sunder Lal and Ors., 1990 PLJ 418.**

[7]. The order refusing to appoint Local Commissioner does not decide any issue on merit inasmuch as that no substantial right of the either party is adjudicated by such order. The order is held to be not revisable, even in case of

acceptance of the application for appointment of the Local Commissioner.

[8]. In **Rajinder & Co. vs. Union of India and others, 2003(1) RCR (Civil) 755**, the Hon'ble Apex Court has held that the question whether the report of the Local Commissioner is finally acceptable or not would be decided by the concerned Court, *de hors* the order passed by the authority concerned. The High Court cannot interfere with the order of the trial Court appointing the Local Commissioner for inspection of the site and to file a report. The said judgment was followed by this Court in **Harpal Singh vs. Harmohinder Singh and others, 2013(2) RCR (Civil) 892**.

[9]. In view of above, the petitioner cannot be allowed to utilize the process of the Court for collecting evidence. No error of jurisdiction can be found in the impugned order dated 04.07.2018 passed by Additional Civil Judge (Senior Division), Phillaur. The present revision petition is accordingly dismissed. However, petitioner would be at liberty to avail his other remedies in accordance with law.

September 26, 2018

Prince

**Whether reasoned/speaking**  
**Whether reportable**

**(RAJ MOHAN SINGH)**  
**JUDGE**

**Yes/No**  
**Yes/No**