

124

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

CR No. 6442 of 2018

Date of Decision: 25.09.2018

Ved Parkash Bali

-Petitioner

Vs

Kamal Dutt

-Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Vishal Sharma Vasudeva, Advocate,
for the petitioner.

RAJ MOHAN SINGH, J. (ORAL)

Petitioner has assailed the order dated 09.08.2018 passed by Civil Judge (Junior Division), Garhshankar vide which application for appointment of local Commissioner was rejected.

Perusal of the site plan would show that the plaintiff is in possession of portion shown in green colour where a boundary wall 'AB' has been erected by the plaintiff. Defendant is in possession of portion shown in red colour. There is a separate boundary wall 'CD' erected by the defendant.

The dispute with regard to installation of ventilators by the defendant in the wall 'CD' is the bone of contention between the parties vis-a-vis easementary right claimed by the

defendant and the plaintiff seeks to raise further construction on the wall 'AB'.

The appointment of local Commissioner is sought for ascertaining factual position on the spot.

It is a settled principle of law that process of the Court cannot be utilized to collect evidence for the parties. Parties would be at liberty to lead their substantive evidence. The order rejecting the prayer for appointment of local Commissioner has not decided any substantive right of the parties.

Revision against said order is not maintainable in view of 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, Pritam Singh and anr. vs. Sunder Lal and Ors., 1990 PLJ 418, Sumer Chand Jain vs. Vishnu Bhagwan Mangla 2006(2) RCR (Civil) 445, Hari Om vs. Minish Kumar, 2005 (2) PLR 690 Balbir Kaur and others vs. Pushpa Widge and others, 2006(2) RCR (Civil) 318; Rajiv Kumar Batra vs. Kashmiri Lal Sika, 2010 (6) RCR (Civil) 37 and Rambir Singh vs. Gram Panchayat, Narhera and others, 2012(1) PLR 429.

No exception can be made out from the impugned order as there is no error of jurisdiction committed by the trial Court while rejecting the application for appointment of local Commissioner.

This revision petition is accordingly, dismissed.

25.09.2018
Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No