

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

CR No. 6633 of 2018
Date of Decision: 01.10.2018

Dharamshala through its Managing Committee

.....Petitioner

Versus

Piara Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. T.N. Sarup, Advocate for the petitioner.

DEEPAK SIBAL, J. (ORAL)

The present petition is directed against the order dated 15.09.2018, passed by the Civil Judge (Junior Division), Batala (for short, the Trial Court), through which an application filed by the petitioner seeking appointment of a Local Commissioner has been dismissed.

Learned counsel for the petitioner submits that the Trial Court erred in rejecting the petitioner's application seeking appointment of a Local Commissioner as a report by the Local Commissioner after visiting the site in question would have facilitated the Trial Court to reach at a just decision; no prejudice would be caused to either side if the Local Commissioner is appointed to visit the disputed site and that the Local Commissioner's report would throw light on the dispute raised between the parties whether at the disputed site there exists a Gurdawara or not.

After considering the afore submissions raised by learned counsel for the petitioner, no merit in the same is found.

The petitioner's suit filed in February, 2013 is pending adjudication for the last over five and a half years. In the plaint the

petitioner had specifically averred that there is a Gurdawara existing on the suit property. The respondents, who were defendants in the suit, denied the existence of the Gurdawara on the suit property through a written statement filed by them way back in the year 2013. After framing of issues, the petitioner led its entire evidence for which it was admittedly granted adequate opportunities. No application was filed by the petitioner at that time for appointment of a Local Commissioner. Thereafter, the respondents/defendants also led their entire evidence and when the matter was listed for final arguments, the petitioner filed the application seeking appointment of a Local Commissioner to visit the suit property and submit a report with regard to the existence of a Gurdawara thereupon.

No fault can be found with the order of the Trial Court rejecting the petitioner's application for appointment of a Local Commissioner in a suit which is pending adjudication for the last over five and a half years, in which the parties, including the petitioner, have already led their entire evidence. It is admitted that the petitioner was granted adequate number of opportunities to lead its evidence, during the course of which no application was filed on its behalf seeking appointment of Local Commissioner. Further, a Local Commissioner cannot be appointed to collect evidence on behalf of either party especially when in the case in hand there is no dispute with regard to demarcation, location or identification of the suit property.

Dismissed.

01.10.2018
sandeep

(DEEPAK SIBAL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No