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

**Civil Revision No.7978 of 2018 (O&M)
Date of Decision: 27.11.2018**

SUBE SINGH

.....Petitioner

Vs

JOGINDER

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Chand Ram Olla Advocate
for the petitioner.

RAJ MOHAN SINGH, J.

[1]. Petitioner has assailed the order dated 25.10.2018 passed by the Civil Judge (Jr. Divn.) Hisar, whereby application filed by plaintiff/petitioner under Order 26 Rule 9 CPC was dismissed.

[2]. The plaintiffs/petitioner filed a suit for possession qua the land measuring 3 Kanals 13 Marlas, as detailed in the head note of the plaint. In the said suit, application under Order 26 Rule 9 CPC read with Section 151 CPC was moved by the plaintiff/petitioner for appointment of Local Commissioner to demarcate the suit land. The application was filed by the petitioner on the ground that he is the owner of the suit land upon which the defendant made his unauthorized possession in the rabi 2015 and further, that it has become necessary to get the suit land demarcated from a revenue official.

[3]. Trial Court dismissed the application and held that plaintiff claims himself to be the owner of suit property and alleges that the defendant has illegally taken the possession . It is a case in which the onus is upon the plaintiff to prove the illegal possession of the defendant over the suit land by way of his substantive evidence. The Trial Court further held that since the appointment of Local Commissioner would amount to collection of evidence and the process of the Court cannot be availed to create evidence in favour of either of the parties to the litigation. Learned counsel relies upon **Kisan Dass @ Krishan Dass & Anr. vs. Bhikham Singh, 2016(3) R.C.R. (Civil) 651.**

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

[5]. In view of **Harvinder Kaur and another vs. Godha Ram and another, 1979 AIR (Punjab) 76**, the revision petition against such an order is not maintainable as the order would be revisable when it determines and adjudicates some substantial right of the parties. Revision petition would lie against the interlocutory order only if, it determines and adjudicates some right of the parties.

[6]. The similar view was adopted in **Mohinder Kumar Rajinder Parkash, Dalmira Singh alias Dalmira and Mangar Singh vs. Piara Lal, 1971 PLR 531.** The view was subsequently followed in **Pritam Singh and anr. vs. Sunder Lal and ors.,**

1990 PLJ 418; Sumer Chand Jain vs. Vishnu Bhagwan Mangla, 2006(2) R.C.R. (Civil) 445; Hari Om vs. Minish Kumar, 2005 (2) PLR 690; Balbir Kaur vs. Pushpa Widge, 2006(2) R.C.R. (Civil) 318; Rajiv Kumar Batra vs. Kashmiri Lal Sika, 2010(6) R.C.R. (Civil) 37 and Rambir Singh vs. Gram Panchayat, Narhera, 2012(1) PLR 429.

[7]. By taking note of the aforesaid precedents, this Court also decided Civil Revision No.4919 of 2016 on 12.08.2016 titled '**Kehar Singh vs. Jagdish Chander', 2017(3) PLR 118'** thereby holding that mere rejection of plea to appoint Local Commissioner the trial Court has not decided any substantial right between the parties and revision petition to that effect is not maintainable. In **Kishan Dass @ Krishan Dass & Anr.'s** case (supra) the ratio of aforesaid precedents were never cited and the controversy regarding maintainability of revision petition was never raked up, therefore, the said case cannot be relied.

[8]. In view of above, there cannot be any exception to the aforesaid precedents. This revision petition is found to be totally devoid of merits and the same is accordingly dismissed.

November 27, 2018

**(RAJ MOHAN SINGH)
JUDGE**

Atik

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