

In the High Court of Punjab and Haryana at Chandigarh

116

CR No. 8021 of 2018

Date of decision: 28.11.2018

MOHAN LAL

.....petitioner

Versus

BALDEV KRISHAN

.....respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr.Gulzar Mohd., Advocate,
for the petitioner.

RAJ MOHAN SINGH, J.(oral)

Petitioner is defendant in the suit. An application under Order 39 Rules 1 and 2 CPC filed by the plaintiff was partially allowed by the trial Court, thereby, restraining the defendant from interfering, disturbing and dis-possessing the plaintiff from the suit property except in due course of law. The order was subject to compliance of Order 39 Rule 3 CPC.

Thereafter, an application was filed by the plaintiff for appointment of local commissioner with a view to collect necessary information in respect of necessary particulars with regard to date, time and manner of interference. Though, it is a settled principle of law that the process of the Court cannot be utilised to collect evidence by the parties, but in view of ratio of **Rajinder and Co. vs. Union of India and others 2003 (10 RCR**

(Civil) 755, followed by this Court in **Harpal Singh vs.**

Harmohinder Singh and others 2013 (2) RCR (Civil) 892, the order appointing local commission is not revisable. The petitioner would be at liberty to rake up the issue of scope for appointment of local commission for collecting the evidence at the instance of the plaintiff before the trial Court by leading substantive evidence or objecting to the evidence collected by the local commissioner in accordance with law.

This revision petition is accordingly dismissed.

November 28, 2018
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(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/Speaking

Yes/No

Whether reportable

Yes/No