

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

CR No.3854 of 2017

Date of Order: 17.01.2019

Samar Vir Singh

....Petitioner

Versus

Vidyapati Sansthan & Ors.

....Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Amit Jain, Advocate for the petitioner.

Ms. Reeta Kohli, Sr. Advocate with
Ms. Chahat Aggarwal, Advocate for respondent No.1.

AMIT RAWAL, J (ORAL)

The short point involved in the present revision petition is whether the objections filed by the defendants to the earlier report submitted by the Local Commission which are pending adjudication, whereas, the trial Court has again appointed Local Commission vide following impugned order can be sustained:

“Argument on the application for appointing the local commission heard. After giving the thoughtful audience to the contents of the application, to the legalistic estimation of this Court, it will be in the interest of justice to appoint the revenue official to ascertain the existing affairs of the suit property as to enable this court to appreciate the existing status of the suit estate bearing Rect No.125, killa no.8/2/2 (5-0), 13/1/1 (0-9), 13/1/2 (2-11). Resultantly, the Tehsildar Sohna is hereby directed to submit his report on or before 12.05.2017. He is directed to serve the notice upon all

the parties prior to undertaking the demarcation activity. His fee has been accessed Rs.1000/- to be paid by the applicant, he is at liberty to peruse any document from the case file with the prior permission to this court.

The case is also adjourned for the date fixed for plaintiff evidence.

Interim order dated 18.11.2015 is extended till the next date of hearing.

Dasti notice of local commission be issued if so desired.

Once a prayer was already made vide Application (P.5) for deciding the objections of the defendants, the trial Court could not have exercised powers under Rule 9 Order 26 CPC without having differed with the report of the earlier Local Commissioner, thus, answer would be 'No'.

Resultantly, the impugned order is not sustainable in the eyes of law and is accordingly set aside. The trial Court is directed to decide the application (P.5) as expeditiously as possible.

Disposed of accordingly in the afore mentioned terms.

January 17, 2019
manoj

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable : Yes/No