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

**Civil Revision No.6960 of 2018
Date of Decision: 16.01.2019**

RAVINDER KUMAR

.....Petitioner

Vs

UNION OF INDIA AND ANR

....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present:Mr. Kartik Gupta, Advocate and
Ms. Anuradha, Advocate
for the petitioner.

RAJ MOHAN SINGH, J.

[1]. This revision petition has been preferred by the petitioner against the order dated 30.05.2018 passed by the Civil Judge (Jr. Divn.) Hoshiarpur, vide which the application filed by the petitioner under Order 26 Rule 9 CPC was dismissed.

[2]. Plaintiff filed a suit for declaration that he is owner in possession of the suit property as shown in the headnote of the plaint with consequential relief of permanent injunction restraining the defendants from interfering in his peaceful possession over the suit property. Plaintiff/petitioner filed an

application for appointment of Local Commissioner for the demarcation of the land.

[3]. The suit was filed in respect of Khasra No.966/5(1-0) on the ground that the plaintiff is the exclusive owner in possession of the same. The defendants have their land towards eastern side of the suit land. Defendants have raised dispute with regard to the passage as their land falls in village Saleran which is having no access to the land. Chintpurni-Hoshiarpur road is situated towards north side of Khasra No.966/5 and the land of the defendants does not abut the said road, but they are adamant to have the passage of the land through the land of the plaintiff. Defendants have also dismantled the tin shed constructed by the plaintiff in his own land. Plaintiff claimed that in order to settle the dispute and for correct determination, the suit land bearing Khasra No.966/5 needs to be demarcated by some revenue official in order to ascertain actual location. With this background, prayer was made for appointment of revenue official as Local Commissioner, who may visit the spot and conduct demarcation in respect of actual and factual position of the passage in dispute. In essence the plaintiff sought indulgence of the trial Court to collect evidence on his behalf so as to strengthen his case by process of the Court.

[4]. The trial Court has declined the prayer on the ground that the process of the Court cannot be utilized for collecting evidence by any party to the lis.

[5]. I have considered the submissions made by learned counsel for the petitioner, but cannot draw any exception to the order passed by the trial Court for more than one reasons.

[6]. In **Harvinder Kaur and another vs. Godha Ram and another, 1979 PLJ 562 DB**, this Court has held that revision against the order refusing to appoint the Local Commissioner is not maintainable. It was concluded that no revision would lie against the order passed under Order 26 Rule 9 CPC. The view expressed by the High Court in **M/s Mohinder Kumar Rajinder Parkash Dalmir Singh alias Dalmira and Mangal Singh and another vs. Piara Lal, 1971 PLR 531** was upheld. Similar view was taken in **Pritam Singh and anr. vs. Sunder Lal and Ors., 1990 PLJ 418**.

[7]. The order refusing to appoint Local Commissioner or the accepting prayer for appointment of Local Commissioner are not revisable orders. Such type of orders do not decide substantive right of the parties. Petitioner would be well within his right to lead substantive evidence during trial. Discretion of the Court cannot be utilized to collect evidence for the petitioner. The view expressed in **Hari Om vs. Minish Kumar, 2005(2)**

PLR 690 was reiterated in Sumer Chand Jain vs. Vishnu Bhagwan Mangla, 2006(2) R.C.R. (Civil) 445 & Balbir Kaur and others vs. Pushpa Widge and others, 2006(2) R.C.R.(Civil) 318 wherein it was held that even the revision under Article 227 of the Constitution of India is not maintainable against such order of refusal to appoint Local Commissioner.

[8]. In view of ratio laid down by the Hon'ble Apex Court in Rajinder & Co. vs. Union of India and others, 2003(1) R.C.R. (Civil) 755 and the view followed by this Court in Harpal Singh vs. Harmohinder Singh and others, 2013(2) R.C.R. (Civil) 892, even in case where prayer for appointment of Local Commissioner is allowed by the trial Court, the revision is not maintainable.

[9]. For the reasons recorded in Tatvadarsha Bandhu Pvt. Ltd., vs. Municipal Corporation, 2015(2) PLJ 349, the indulgence cannot be granted in favour of the plaintiff/petitioner for the appointment of Local Commissioner as the same would lead to allow the petitioner to collect evidence for supporting his cause during trial.

[10]. This Court while deciding CR No.7286 of 2016 titled 'Kishori Lal vs. Suresh Kumar and others', decided on 02.08.2018; CR No.4314 of 2017 titled 'Pritam Singh vs. Bahadur Singh and others', decided on 31.07.2017 and CR

No.6108 of 2018 titled 'Ashwani Kumar and Amarjit Kaur and others' decided on 12.09.2018 took the same view as aforesaid.

[11]. In view of aforesaid reasons, I find no error of jurisdiction in the impugned order passed by the trial Court, therefore, this revision petition is accordance dismissed.

January 16, 2019	(RAJ MOHAN SINGH)
Atik	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No