

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

CR-8172-2018

Date of Decision: 10.01.2019

Satish Kumar

... Petitioner

vs.

Gurcharan Singh

.. Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Krishan K. Thakur, Advocate
for the petitioner.

AMOL RATTAN SINGH,J

By this petition, the petitioner (tenant) challenges the order of learned Rent Controller (erroneously shown in the impugned order to be Civil Judge (Senior Division), Ferozepur, dated 16.10.2018, by which the application seeking appointment of a Local Commissioner has been dismissed.

Vide the said application (copy annexure P2), the petitioner sought appointment of a Local Commissioner to try and prove that the shop in question in which the petitioner is a tenant, is not in a dilapidated condition as has been contended by the respondent herein (landlord).

As per the petitioner, neither are there any major cracks in the premises nor have been wooden batten out lived their lives and, which position can only be determined by a Local Commissioner.

The learned Rent Controller has dismissed the application on the ground that evidence of the kind sought to be gathered, cannot be by way of appointing a Local Commissioner and actually it should have been the petitioner-tenant who himself should have led affirmative evidence on that issue.

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Learned counsel for the petitioner submits that as the petitioner only wishes to bring on record the factual position, the learned trial Court has wholly erred in passing the impugned order.

Having considered the argument, I see absolutely no strength in it, in view of the fact that if the condition of the demised premises is not as the respondent-landlord claims it to be, the petitioner could easily lead photographic evidence etc. to prove the same, and if at that stage the learned Rent Controller comes to the conclusion that it is not sufficient to prove the actual condition of the demised premises one way or the other, the appointment of a Local Commissioner can be considered.

At this stage of course, no such application would be maintainable as has rightly been held by the Rent Controller.

Consequently, with the aforesaid observation, this petition is dismissed *in limine*.

10.01.2019
smriti/dinesh

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned : Yes/No.
Whether Reportable : Yes/No