

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

CR-1201-2019

Date of decision:-15.3.2019

Janta Singh alias Gurjant Singh

...Petitioner

Versus

Sikander Singh and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Sanjeev Kumar Arora, Advocate
for the petitioner.

H.S. MADAAN, J.(ORAL)

The petitioner is aggrieved by the order dated 17.1.2019 passed by learned Additional Civil Judge(Sr.Divn.), Jaitu in Execution Application titled 'Janta Singh @ Gurjant Singh Versus Sikander Singh and others' declining request for appointment of a Local Commissioner.

Janta Singh @ Gurjant Singh had filed a suit for grant of permanent injunction against Sikander Singh, Sarpanch of Gram Panchayat village Madak, Tehsil Jaitu, District Faridkot, State of Punjab through Collector, Faridkot, Sub Divisional Officer, PWD, B&R, Jaitu, Tehsil Jaitu and Superintendent Engineer, PWD, B & R Circle, Faridkot. That Civil Suit was decreed by ACJ(SD), Faridkot vide judgment and decree dated 23.10.2009 and defendants were restrained from making/constructing metalled road in the agricultural land of the plaintiff except in due course of law. The petitioner had filed an application under Order 21 Rule 32 read with Section 151 CPC against the respondents

wherein he moved an application that respondents had intentionally violated the judgment and decree by encroaching upon the area of applicant for constructing metalled road therein. He had filed an application for appointment of Local Commissioner to visit the spot and report about the encroachment made by respondents. After getting reply from the respondents, the trial Court dismissed the application observing that the petitioner/decreed-holder cannot take assistance of the Court to generate and gather evidence for himself and that as per reply filed by JD No.1, the revenue officials had demarcated the area prior to construction of the road, which can be summoned by the decreed-holder. The trial Court found that there was no ground to appoint a Local Commissioner to serve the cause of the decreed-holder since the decreed-holder has the means to summon the relevant evidence/record already in existence in support of his claim.

I have heard learned counsel for the petitioner besides going through the record and I do not find any illegality or infirmity in the impugned order. The applicant is to prove his own case by leading evidence and appointment of Local Commissioner is certainly not essential for just and proper decision of the controversy. There is no reason to interfere with the impugned order.

Finding no merit in the civil revision petition, the same stands dismissed.

15.3.2019
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No