

110

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

**Civil Revision No.4954 of 2019 (O&M)
Date of Decision: 21.08.2019**

Rajender Prasad

.....Petitioner

Vs

Santosh Kumar and others

....Respondents

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

Present: Mr. J.S. Yadav Advocate
for the petitioner.

RAJ MOHAN SINGH, J.

[1]. Petitioner has preferred this revision petition against the order dated 29.07.2019 passed by the Civil Judge (Jr. Divn.) Gurugram vide which the prayer in terms of Order 26 Rule 9 read with Section 151 CPC for appointment of Local Commissioner was dismissed.

[2]. Plaintiff/petitioner filed an application for appointment of Local Commissioner in a suit for permanent injunction. As per version of the plaintiff in the suit, his possession was threatened by the defendants and he sought permanent injunction to the effect that the defendants be restrained from interfering in the peaceful possession of the plaintiff over the suit property and

also from taking forcible possession and encroaching upon the suit property.

[3]. The Gram Panchayat/defendant No.3 took up the plea that the land in question vests in the Gram Panchayat and the same is being used for common purpose of village community.

[4]. I have considered the submissions made by learned counsel for the petitioner.

[5]. It is a settled principle of law that the Court cannot be instrumental in allowing one of the parties to collect evidence with the process of the Court. Plaintiff would be well within his right to lead substantive evidence. No substantive right has been decided by declining the prayer for appointment of Local Commissioner. The revision against such an order is not maintainable in view of ratio of Harvinder Kaur and another vs. Godha Ram and another, 1979 PLJ 562 DB. 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.

[6]. No substantial right of the plaintiff has been decided by refusing to appoint Local Commissioner, therefore, interference

in this revision is not called for. This revision petition is accordingly dismissed.

August 21, 2019

Atik

**(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No