

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No. 5824 of 2019

Date of decision: 18.09.2019

Chattar Singh Punia

...Petitioner

V/s.

Sukha Singh and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Kamal Mor, Advocate for the petitioner.

RITU BAHRI, J. (Oral).

The plaintiff had filed a suit (Annexure P-2) for recovery of Rs.20,85,000/- alongwith future and *pendente lite* interest or for specific performance of agreement to sell dated 12.03.2011.

Issues were framed and evidence of the plaintiff was recorded and at the stage of evidence in rebuttal, the plaintiff has made an application under Order 18 Rule 18 CPC read with Order 26 Rule 9 CPC for appointment of Local Commissioner to get the existing state of affairs/amenities/services/facilities qua the land in dispute by concerned revenue authority to ascertain the actual/factual position (*specifically qua existence or non existence of plotting, sewerage pipe line, storm drainage, water supply pipe line, electricity supply or their connection with infrastructure of concerned public authority etc.*) for just and proper decision in the interest of substantial justice to avoid multiplicity of litigation. Vide order dated 20.08.2019 (Annexure P-5), this application has been dismissed.

Learned counsel for the petitioner has argued that pursuant to the agreement dated 12.03.2011, the plaintiff was entitled for the above said benefits/facilities when he made a deal with respondents.

Since the land was in the Municipal limit of Kaithal, the plaintiff was required to lead evidence in the affirmative with regard to all the above said existence of plotting, sewerage pipe line, storm drainage, water supply pipe line, electricity supply or their connection with infrastructure of concerned public authority etc. The plaintiff could have collected this evidence from Municipal Corporation, Kaithal as to how the plans of the society where the land is situated, were approved without the infrastructure facilities. After closing the evidence of the plaintiff, he cannot seek appointment of Local Commissioner to collect this evidence at rebuttal stage and the application for appointment of Local Commissioner has been rightly dismissed by the trial Court.

Moreover, learned counsel for the plaintiff is not able to justify the reason for not leading evidence in the affirmative with respect to the above said requisite infrastructure on the suit property in consonance with agreement dated 12.03.2011.

Keeping in view the above, no interference in the order dated 20.08.2019 (Annexure P-5) is made out.

Revision is dismissed.

(RITU BAHRI)
JUDGE

18.09.2019

Divyanshi

Whether speaking/reasoned
Whether reportable

:
:

Yes/No
Yes/No