

**RA-CR-4-2021 in
CR-2422-2020**

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

**RA-CR-4-2021 in
CR-2422-2020
Date of decision: 16.03.2021**

Lochan Dass

...Applicant-Petitioner

Versus

Deepa and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. D.S. Matya, Advocate, for the applicant-petitioner.

HARNARESH SINGH GILL, J.

The present application under Section 114 CPC has been filed for review of the order dated 04.11.2020 passed by this Court, vide which the above-captioned civil revision was dismissed as not maintainable.

Learned counsel for the applicant has contended that the civil revision dismissed by this Court as not maintainable, was filed under Article 227 of the Constitution, whereas the judgment in Pritam Singh and another Vs. Sunder Lal and others, 1990(2) PLR 1991, referred to in the dismissal order, was passed in a petition filed under Section 115 CPC. It is further contended that as the powers enjoined with this Court under Article 227 of the Constitution are wide, the judgment in Pritam Singh's case (supra), will have no applicability in the case in hand. Rather, he relies upon the judgments of the Coordinate Benches of this Court, in Brijlal Vs. Sajjan Singh and others, 2019(3) RCR (Civil) 845; CR No.235-2015, titled as Banarsi Das Vs. Sardha Ram and others, decided on 14.09.2015; CR-

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6504-2018 titled as Raj Kumar Vs. Tarlok Singh and others, decided on 18.01.2019 and CR-935-2018 titled as Tejbir and others Vs. Deep Chand, decided on 29.05.2019.

After hearing the learned counsel for the applicant, I find the present applicant bereft of merit and thus, the same is liable to be dismissed.

This Court reiterates the law laid down in Pritam Singh's case (supra) as regards non-maintainability of the revision petition. There is no merit in the argument of the learned counsel for the applicant that under Article 227 of the Constitution, this Court can interfere to examine the validity of the impugned order declining the application for appointment of a local commissioner. Reference may be made to the judgments rendered by the Coordinate Benches in Banarsi Dass Vs. Sunita Rani @ Sarita Rani and Others, 2017 (2) R.C.R. (Civil) 274, Gurmail Singh and others Vs. Dharam Kaur and others, 2017(4) PLR 255 and Santokh Singh and others Vs. Majinder Singh and others, 2020 (1) PLR 151.

Even otherwise, the learned District Judge, Yamuna Nagar, while dismissing the application for appointment of the Local Commissioner, vide order dated 16.08.2019, has rightly held that the Local Commissioner cannot be appointed to collect the evidence on behalf of either of the parties. It was observed as under:-

“6. The plaintiff has filed a suit for possession of plot purchased by him out of Khasra No.16//23, 24 measuring 40 feet x 46 feet situated in Mauza Kansapur, Maya Puri, Yamuna Nagar, vide sale deed dated 16.10.1987. The plaintiff filed an application before the Deputy Commissioner on 06.09.2010 and the property was demarcated by the Assistant Collector IInd Grade, Jagadhri on 23.11.2010 in the presence of the plaintiff and defendants and with the

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verification of the sale deeds of the plaintiff dated 16.10.1987 and of the defendants dated 19.12.2008. According to this report, the suit property falls in Khasra No.16//23 and plot of the defendants falls in Khasra No.16//22. Demarcation report dated 23.11.2010 (Ex.P3) was referred by the appellant-plaintiff. Both the parties i.e. plaintiff and defendants have purchased the property vide different sale deeds. The appellant-plaintiff himself relied upon the report of local commission dated 23.11.2010. According to the demarcation report Ex.P3 and the site plan Mark-A, the suit property falls between plots No.80 and 82. The appellant-plaintiff has taken the plea that plot No.81 in the sale deed Ex.P1 is wrongly mentioned. This report was not relied upon by the trial court as the plaintiff failed to prove that the defendants were present at the time of demarcation dated 23.11.2010 or any notice was issued to the defendants regarding conducting of demarcation. The defendants relied upon sale deed Ex.P3 and the suit plot was mentioned as plot No.81. During trial of the case, the defendants examined Subhash Kumar (DW3). He is owner of plot No.82-A and stated that plot No.81 is situated on Western side of his plot and is owned by the defendants of this case.

It is well settled that no local commissioner can be appointed to collect the evidence on behalf of either of the parties. The plaintiff has to succeed or fail on the strength of his own evidence. The case of the parties is based on documentary evidence. Both sale deeds along with site plans are on the file. It is for the plaintiff to prove the identity and title of his property. He himself is not satisfied with the recital of the sale deed wherein he has also alleged that plot No.81 is wrongly mentioned in his sale deed.”

No other point has been urged.

In view of the above, finding no merit in the present application, the same is hereby dismissed.

16.03.2021

parveen kumar

**(HARNARESH SINGH GILL)
JUDGE**

Whether reasoned/speaking?

Yes/No

Whether reportable?

Yes/No