

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 3103 of 2021

Date of Decision: 03.12.2021

Jitender alias Leela

... Petitioner(s)

Versus

Rashma

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. R.S.Kundu, Advocate
for the petitioner(s).

Anil Kshetarpal, J.

1. The petitioner is a defendant in the suit for damages/compensation of ₹ 10,00,000/-, approximately. Both the parties are neighbours having their houses adjacent to each other having a common wall. It appears that the defendant has started reconstruction. During the pendency of the suit, on the application filed by the plaintiff, the trial Court has appointed a Local Commissioner to visit the site and report about the existing condition of the house of the plaintiff and the fresh construction raised near the common wall.

2. The learned counsel representing the petitioner contends that the trial Court, while appointing the Local Commissioner, is collecting evidence on behalf of the plaintiff. He further relies upon the judgment passed by a Co-ordinate Bench in *Banarsi Dass v. Sunita Rani alias Sarita Rani and Others (Civil Revision No. 6754 of 2016, decided on 07.10.2016)*.

Commissioner to make local investigation. Such provision has been incorporated in order to help the Court, in properly adjudicating such kind of disputes. Sometimes, while sitting in the four walls of the Court room, it becomes difficult for the Court to adjudicate the matter. In such circumstances, either the Presiding Judge can himself visit the spot or depute an officer or representative to report about the existing position of the spot in question. In such circumstances, it is not appropriate to conclude, that the Court has appointed the Local Commissioner to collect evidence on behalf of the plaintiff.

4. As regards the judgment relied upon by the learned counsel representing the petitioner, it would be noted that in the aforesaid case, the Local Commissioner was appointed to demarcate the suit property, in order to ascertain the possession of the parties. In the present case, there is no direction to ascertain the possession of the property. Hence, no ground to interfere is made out. Consequently, the present revision petition is dismissed.

(Anil Kshetarpal)
Judge

December 03, 2021

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No