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

CR-3211-2022 (O&M)

Date of Decision: 16.08.2022

Om Parkash

.. Petitioner

Vs.

Vijaya Bank

..Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Manoj Pundir, Advocate for the petitioner.

...

Manoj Bajaj, J. (Oral)

This civil revision has been filed under Article 227 Constitution of India for setting aside the impugned order dated 16.11.2021 (Annexure P-6), passed by ACJ (Sr. Divn.), Bilaspur, District Yamuna Nagar in CS-4/2018, whereby application filed by the petitioner for appointment of independent Local Commissioner for visit the site of the suit property was dismissed.

Learned counsel for the petitioner has argued that the petitioner (plaintiff) has filed a suit for permanent injunction against the bank relating to suit property bearing House No.6/33, Rajan Gali, Chhachhrauli, Tehsil Chhachhrauli, District Yamun Nagar and his injunction application was allowed vide order dated 02.02.2018 (Annexure P-1) restraining the defendant from interfering in the possession of the above said suit property, but after the said injunction, the same was violated and petitioner (plaintiff) was dispossessed. He submits that the petitioner filed the application under Order XXXIX Rule 2-A CPC and the same is also pending. According to the learned counsel, the above said house is not the property, which was

mortgaged with the bank and in order to prove this, the petitioner had moved an application under Order XXVI Rule 9 CPC for appointment of Local Commissioner to ascertain this fact, but the same has been erroneously declined vide order dated 16.11.2021 (Annexure P-6). He submits that the impugned order deserves to be set aside.

After hearing the learned counsel and considering the above background, this Court finds that once the plaintiff/petitioner was successful in making out a *prima facie* case in respect of the property bearing No. House No.6/33, Rajan Gali, Chhachhrauli, Tehsil Chhachhrauli, District Yamun Nagar, it does not appeal to reasoning as to why the appointment of Local Commissioner is required at a subsequent stage, that too for collecting evidence.

A perusal of the impugned order shows that the trial Court has carefully examined the facts and circumstances of the case before rejecting the application. Apart from it, it is also settled law that the revision petition is not maintainable against the order deciding an application under Order XXVI Rule 9 CPC.

Resultantly, the petition fails and is dismissed.

16.08.2022
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes No
Yes No