

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

**114**

**CR No.5445 of 2022**

**Date of Decision: 23.11.2022**

Paramjit Kaur and others

...Petitioners

Versus

Buta Singh and others

...Respondents

**CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA**

Present :- Mr. Hardeep Singh, Advocate  
for the petitioners.

**MEENAKSHI I. MEHTA, J. (Oral)**

The petitioners (defendants before the trial Court) herein have assailed the order dated 09.11.2022 (Annexure P-9) passed by learned Civil Judge (Junior Division), Zira, District Ferozepur (for short 'the trial Court') whereby the application moved by them under Order 26 Rule 9 CPC for seeking the appointment of the Local Commissioner, has been dismissed.

2. I have heard learned counsel for the petitioners, at the preliminary stage, in the present revision petition and have also perused the file carefully.

3. Learned counsel for the petitioners contends that the dispute between the parties in the Civil Suit revolves around the factum of the existence of the passage in the suit land and the report of the Local Commissioner would depict the actual position prevailing at the spot in respect thereof but the trial Court has erroneously dismissed the application moved by the petitioners for the afore-said purpose.

4. Concededly, the respondents (plaintiffs before the trial Court) have filed the Civil Suit against the petitioners for seeking a decree for declaration to the effect that they are entitled to use the passage in dispute and they have also sought the consequential relief of permanent injunction to restrain the petitioners from interfering in their peaceful use of the same (passage).

5. It is entirely for the respondents to adduce cogent and sufficient evidence to substantiate their claim in the said Civil Suit and it is also exclusively for the petitioners to lead trustworthy evidence to establish the pleas, as set-forth by them in their written statement to controvert the averments as canvassed by the respondents in their plaint. It is well-settled that the Local Commissioner cannot be appointed to collect evidence for any of the parties to the litigation. To add to it, the instant petition is not maintainable in view of the observations made by the Division Bench of this Court in **Pritam Singh and another vs. Sunder Lal and others, 1990 PLJ 418** to the effect that “*the order refusing to appoint a Local Commissioner does not decide any issue, nor adjudicates rights of the parties for the purpose of the suit and is, therefore, not revisable*”.

6. Resultantly, the revision petition in hand, being *sans* any merit, stands dismissed.

**23.11.2022**  
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**(MEENAKSHI I. MEHTA)**  
**JUDGE**

*Whether speaking/reasoned:*      *Yes*  
*Whether Reportable:*              *Yes*