

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Sr. No.217

CR No.8903 of 2018

Date of Decision: 30.11.2022

Jagdish Ram

.... Petitioner

Versus

Harbhajan Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Sunil Agnihotri, Advocate
for the petitioner.

Mr. Satbir Rathore, Advocate
for respondents No.1 and 2.

Mr. Rohit Sapehiya, Advocate and
Ms. Deepika Chauhan, Advocate for
Mr. Rai Singh Chauhan, Advocate
for respondents No.3 and 4.

Mr. Ketan Chopra, Advocate
for respondents No.5(a) to (d).

TRIBHUVAN DAHIYA, J. (ORAL)

This revision petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 23.10.2018 (Annexure P-7) whereby the petitioner/plaintiff's application under Order XXVI Rule 9 of CPC for appointment of Local Commissioner was dismissed by the trial Court.

2. Learned counsel for the petitioner contends that the respondents/defendants agreed to the appointment of Local Commissioner in their cross examination. Secondly, it has been submitted that a counter claim has also been filed by the defendants for restraining the plaintiff or his agents from interfering in peaceful and cultivating possession of their land.

3. Learned counsel for the respondents, on the other hand, has argued that the revision petition itself is not maintainable as the order passed by the trial Court dismissing the application seeking appointment of Local Commissioner is not revisable, as has been held by this Court in a number of judgments. He has placed reliance upon judgment dated 08.09.2016 passed in *CR No.3528 of 2016* titled as *Gurdeep Singh v. State of Punjab and others*.

4. The law on the issue is well settled that an order declining appointment of Local Commissioner passed by the trial Court under Order XXVI Rule 9 CPC is not revisable as held by Hon'ble Division Bench of this Court in *Harvinder Kaur and another v. Godha Ram and another; 1979 PLJ 562* and being followed consistently since then. The argument of learned counsel for the petitioner that the defendants consented to the appointment of Local Commissioner or a counter-claim filed by him, are not the circumstances which can affect the settled law on issue. The consent given by any of the parties can not disturb the settled law.

5. Petition stands dismissed.

6. Pending miscellaneous application(s), if any, stand disposed of as having been rendered infructuous.

(TRIBHUVAN DAHIYA)
JUDGE

30.11.2022
Maninder

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No