

CR No.908 of 2023 (O&M)

Date of Decision: 09.02.2023

Mamu Ram @ Mam Raj

.....Petitioner

Versus

Ram Darshan and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Gaurav Singla, Advocate for the petitioner.

RAJBIR SEHRAWAT, J. (ORAL)

This is a petition filed under Article 227 of the Constitution of India praying for setting aside the impugned order dated 18.01.2023 (Annexure P-1) passed by the Civil Judge (Jr. Divn.) Sunam, vide which the application filed by the petitioner and perform respondent Nos.3 to 5/defendant Nos.2 to 5 under Order 26 Rule 9 read with Section 151 CPC for appointment of Local Commissioner has been dismissed.

A perusal of the impugned order shows that the trial Court has recorded that the responsibility to prove his case under the law is upon the plaintiff. Unless the plaintiff proves his case, the defendants are under no liability to suffer any decree. Hence, the Local Commissioner was not required to be appointed in the facts and circumstances of the case. This Court does not find any ground to interfere with the said order passed by the trial Court. Moreover, the present petitioner is the defendant in the suit. He would be free to lead the evidence whatever he deems appropriate to rebut the case of the plaintiff; and for that reason also no Local Commissioner is required to be appointed as such.

In view of the above, finding not merit in the present petition, the same dismissed.

(RAJBIR SEHRAWAT)
JUDGE**09.02.2023***sandeep*

Whether Speaking/Reasoned : Yes/No

Whether Reportable : Yes/No