

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

**CR-493-2021 (O&M)
Decided on:-18.07.2023**

Bimla Devi and others

....Petitioners..

VS.

Avtar Singh and another

....Respondents.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Bhupinder Banga, Advocate,
for the petitioners.

Mr. Deepak Verma, Advocate,
for respondents No.1 and 2.

HARKESH MANUJA J. (Oral)

1. By way of present revision petition filed under Article 227 of the Constitution of India read with Section 151 CPC, challenge has been made to an order dated 17.02.2021 passed by the Court of learned Additional Civil Judge (Senior Division), Garhshankar.

2. In the present case, a suit for permanent injunction came to be filed at the instance of respondents-plaintiffs, wherein, Local Commissioner was appointed vide order dated 13.11.2019 by the learned trial Court. In pursuance thereof, the Local Commissioner submitted his report before the trial Court to which the petitioners-defendants filed their objections.

3. Vide order dated 17.02.2021, the learned trial Court passed the following observations while dealing with the objections filed at the instance of petitioners-defendants, which read as under:-

"I have considered the submissions and perused the

record. At the outset it is clarified that report of local commissioner never makes sole ground for decision of the case, rather local commissioner was appointed just to facilitate and clarify the facts of the case. Defendants have raised objections to the report of local commissioner and claimed that they had clicked photographs and also done videography at the spot. I am of the considered opinion that for determination of suit on merits, both the contesting parties are required to stand on their own legs to lead evidence to prove their case and the objections are kept open to be determined in the light of evidence which parties would lead at the opportune time.”

4. At this stage, the primary grievance of the petitioners is that though the issue as regards the objections to the report of Local Commissioner was kept open to be determined in the light of evidence going to be led by the parties, however, the same was required to be dealt with immediately, considering the nature of dispute as well as the order of status quo having been passed.

5. I have heard learned counsel for the parties and gone through the paper book.

6. A perusal of record shows that while passing the impugned order, the learned trial Court has categorically recorded that the objections raised at the instance of petitioners-defendants to the Local Commissioner's report are kept open to be decided in the light of evidence which parties would lead at the opportune time to which, this Court is unable to find any illegality or perversity. The adjudication upon the objections after recording of evidence would rather help the petitioners to substantiate their plea and it would also even help the trial Court to appreciate the objections in a better

way.

7. Accordingly, the present revision petition is disposed of with a request to the learned trial Court to adjudicate upon the objections moved by the petitioners-defendants to the report of the Local Commissioner by specifically dealing with those, post recording of evidence, after affording opportunity of hearing to the parties.

8. Considering the fact that the dispute in the present case relates to irrigation of agricultural land, the trial Court is requested to decide the suit as well as the objections, preferably within a period of 1 year from today.

9. Pending application(s), if any, shall also stands disposed of.

18.07.2023
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(HARKESH MANUJA)
JUDGE

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