

In the High Court of Punjab and Haryana at Chandigarh

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CR-1752-2023 (O & M)

Date of Decision: March 20, 2023

RAGHUBIR SINGH

.....PETITIONER

VERSUS

DHARAM SINGH AND ORS

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

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

ANUPINDER SINGH GREWAL, J (ORAL)

The petitioner has challenged the order dated 21.02.2023 whereby his application for appointment of Local Commissioner has been declined.

Learned counsel for the petitioner submits that the petitioner and the respondent had earlier settled the matter on 18.06.2022 with regard to ownership and possession of the land in dispute. It was stipulated in the terms and conditions of the compromise that the respondents had agreed to permit the petitioner to shift his motor to a part of his field. He had later resiled from the terms of the compromise and the petitioner was compelled to file a suit for mandatory injunction. In the cross-examination, the respondent had agreed for the appointment of a Local Commissioner and thereafter the petitioner had preferred an application for appointment of a Local Commissioner, which has erroneously been declined by the impugned order.

Heard.

The petitioner is seeking appointment of a Local Commissioner in support of his pleading that respondent has indeed installed a solar powered system to irrigate his fields. The trial Court while declining the application has held that it is the duty of the parties to prove their case by leading evidence, Local Commissioner cannot be appointed to collect evidence for the parties. I do not find any infirmity in the findings of the trial Court as the appointment of a Local Commissioner is a discretionary relief which has been declined to the petitioner. The petitioner would of course have the opportunity to lead evidence in support of his pleadings. In the event of the respondent installing a solar powered system for irrigation, the petitioner would be able to prove the same through his evidence.

Consequently, I do not find any merit in this petition.

At this stage, learned counsel for the petitioner submits that as the petitioner and the respondent belong to the same village and the dispute between them has already been narrowed down, the matter can be referred to the mediation.

The trial Court is directed to explore the possibility of settling the same through mediation in terms of Section 89 CPC before finally adjudicating the suit on merits.

The petition stands disposed of.

(ANUPINDER SINGH GREWAL)
JUDGE

March 20, 2023
A.Kaundal

Whether speaking/ reasoned : Yes/No
Whether Reportable : Yes/No