

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR 1315/2022

Date of decision:12/01/2023

Sohan Lal and another

.....Petitioners.

Vs.

Jaswinder Kaur

.....Respondent

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr.UK Agnohotri, Advocate for the petitioners.
 Mr. Avnish Mittal, Advocate for the respondent.

Nidhi Gupta, J.

This revision petition has been filed for setting aside of the impugned order dated 8.3.2022 passed by Ld. Civil Judge (Jr. Div.) Rajpura (Annexure P-5) whereby application filed by the petitioners under Order 26 Rule 9 CPC for appointment of Revenue Official to demarcate the suit property has been dismissed.

Heard learned counsel for the parties.

It is well established position in law that where an application for appointment of Local Commissioner has been rejected by the Courts

below, such orders are not amenable to revisional jurisdiction. It has been held by two Division Benches of this Court in **Harvinder Kaur v Godha Ram, 1979 PLJ 562** and **Pritam Singh v Sunder Lal, 1990(2) PLR 191**, that Revision Petition is not maintainable against an order passed by the Trial Court dismissing application for appointment of Local Commissioner.

It is the consistent position in law, that an order refusing to appoint Local Commissioner does not decide any issue nor adjudicate any rights of the parties for the purpose of the suit and therefore, are not revisable. Refusing to appoint a Commissioner has nothing to do with the rights of the parties and it is purely the discretion of the Court. If the Court refuses to appoint a Local Commissioner, no right of the parties is prejudiced. It is further an established position in law that parties have to adduce their evidence and Courts cannot be used as an instrument to collect evidence on behalf of the parties.

For the reasons stated above, finding no merit in this revision petition the same is hereby dismissed.

Pending application(s), if any, also stand disposed of accordingly.

12/01/2023	(Nidhi Gupta)
Joshi	Judge
Whether speaking/reasoned	Yes
Whether reportable	Yes/No