

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

Sr. No.265

**CR-2443-2020 (O&M)
Date of decision: 27.07.2023**

HOSHIYAR SINGH

.....Petitioner

versus

HIMMAT SINGH AND ANR

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: None for the petitioner.

Mr. Chanderhas Yadav, Advocate
for respondent Nos.1 and 2.

NAMIT KUMAR, J. (ORAL)

1. None had put in appearance on behalf of the petitioner on 10.02.2023.

Even today also, no one is present on behalf of the petitioner.

2. The instant revision petition has been filed by the petitioner impugning the order dated 10.02.2020 (Annexure P-5), passed by the Court of learned Civil Judge (Junior Division), Jhajjar, whereby the application filed by the plaintiff for appointing a Local Commissioner for bringing on record the existing position/measurement of the purchased property of the defendants/respondents as per Sale Deeds, has been dismissed.

3. Learned counsel for the respondents submits that the revision petition challenging the order refusing to appoint the Local Commissioner is not maintainable and has placed reliance upon Division Bench judgment of this Court reported as **1990(2)-PLR-191 – Pritam Singh and Another vs. Sunderlal and Others** and the judgments of Coordinate Bench of this Court reported as **2022-SCC-Online-P&H-1777 – Harchand Vs. Karambir Singh and Another; Civil**

Revision bearing No. CR-4408-2020 – Vishal Vashisht Vs. Natasha Sharma, decided on 10.11.2022.

4. In the present case the challenge is to the order dismissing the application for appointment of a Local Commissioner. A Division Bench of this Court in the case of **Pritam Singh (supra)** inter-alia held as under: -

“6. After going through the judgments cited in the reference order, we do not find that the earlier judgment in Harvinder Kaur's case (supra) requires any reconsideration. The order refusing to appoint a local commissioner does not decide any issue, nor adjudicates rights of the parties for the purpose of the suit and is, therefore, not revisable. The distinction sought to be made by the learned Single Judge in view of the Judgment in M/s Sadhu Ram Bali Ram's case (supra) was clearly noticed by the Division Bench in Harvinder Kaur's case (supra) and it was observed:

“It may be observed that the facts of M/s Sadhu Ram Bali Ram's case were different as in that case the onus of an issue had been wrongly placed and while deciding that question, it was held that such an order would be revisable.”

Apart from that, placing the onus of an issue has something to do with the rights of the parties whereas refusing to appoint a Commission under Order 26, Rule 9, Code of Civil Procedure, has nothing to do with the rights of the parties as such. It is the discretion of the Court to appoint a Commission there under and if the Court refuses to appoint a Commission, then no right of any party can be said to be prejudiced as such.”

5. Similar view has been taken by this Court in the case of **Smt. Raksha Devi Vs. Madan Lal & Ors. 2017(3) PLR 249** wherein it has categorically been held that no revision would be maintainable against an order dismissing an application for appointment of a Local Commissioner. It is trite that an order refusing to appoint a Local Commissioner does not decide any issue nor does it

adjudicate any rights of the parties for the purpose of the suit and hence would not be a revisable order.

6. In view of the law laid down by the Division Bench of this Court, I do not find any illegality or irregularity in the order passed by the Court below.

7. The revision petition is accordingly dismissed. Pending applications, if any, also stand disposed off.

(NAMIT KUMAR)
JUDGE

27.07.2023
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<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>