

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(263)

CR No. 4629 of 2022
Date of Decision : 13.03.2023

Smt. Rekha

...Petitioner

Versus

Kartar and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Himanshu Sharma, Advocate for the petitioner.

None for respondent Nos. 1 and 2 despite service.

Mr. Vikram Singh, Advocate for respondent No. 3.

Harsimran Singh Sethi J. (Oral)

The present civil revision petition has been filed challenging the order dated 26.09.2022 (Annexure P-1) by which the application filed with a prayer that objection raised to the report of the Local Commissioner be decided prior to undertaking any other proceeding, has been rejected.

Learned counsel for the petitioner argues that though he will have an opportunity to cross-examine the Local Commissioner during leading of the evidence and all the objections qua the report will be put to him, but he is only aggrieved against a finding recorded by the trial court in paragraph 7 that no objection qua the report of the Local Commissioner are maintainable, which is going to cause prejudice to the petitioner at a later

Though, notice of the petition was issued, no one has appeared on behalf of respondent Nos. 1 and 2 despite service and Mr. Vikram Singh, Advocate appears on behalf of respondent No. 3.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

From the impugned order dated 26.09.2022 (Annexure P-1), it is clear that due opportunity can be availed by the petitioner to cross-examine the Local Commissioner at the time of the recording of the evidence and put forth all the objections to him as being raised against the report. The right to object to the report of Local Commissioner has not been taken away from the petitioner and the words used by the trial court in paragraph 7 that “the objections are not maintainable”, is to be read only that the same are not to be decided before proceeding further with suit as being prayed by the petitioner in the application. Petitioner has ample opportunity to put objection to the Local Commissioner as and when he is called for examination during the recording of the evidence. The interpretation of the impugned order by the petitioner that her objections have been dismissed for all times to come as not maintainable, is not correct. Only the claim of the petitioner of deciding the objection before recording of the evidence has been held to be non-maintainable.

The petitioner will be at liberty to raise her objection as and when the Local Commissioner is summoned during the recording of the evidence. It is made clear that in case, before the evidence is recorded, the report of the Local Commissioner is to be relied upon by the court in order to pass any interim order during the proceedings, the petitioner will be at

liberty to raise objection by filing appropriate reply for consideration of the court.

Civil revision petition stands disposed of in above terms.

March 13, 2023
kanchan

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No