

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

124-2

CR-5856-2023 (O&M)

Date of Decision : 05.10.2023

Rajiv Kumar @ Rajeev Kumar and others

....Petitioners

Versus

M/s Mars Super Specialist Health Care Pvt. Ltd.
through Dr. Abhey Kumar and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present : Mr. Ajay Jain, Advocate for the petitioners.

NAMIT KUMAR, J. (ORAL)

CM-18438-CII-2023

Prayer in the instant application filed under Section 151 of CPC is for exemption from filing certified copy of order dated 21.09.2023 passed by the Trial Court.

Allowed as prayed for subject to all just exceptions.

CR-5856-2023

1. The petitioners have filed the instant revision petition under Article 227 of the Constitution of India for issuance of appropriate directions to the Trial Court to dispose of the application filed by the petitioners/plaintiffs under Order 26 Rule 9 read with Section 151 of CPC for appointment of Local Commissioner.

2. Learned counsel for the petitioners submits that although the statement was made on behalf of respondents/defendants No.1 and 2 before Trial Court that they are raising construction over their share only,

however, it is the case of the petitioners/plaintiffs that construction is being raised on whole of the property. Therefore, in this view of the matter an application dated 21.09.2023 under Order 26 Rule 9 read with Section 151 of CPC for appointment of local Commissioner was filed by the petitioners/plaintiffs and in para 3 of the said application it has been specifically mentioned that respondents/defendants No.1 and 2 raising the construction on the whole part of the property, situated at Rewari - Delhi Road and are changing the nature of the suit property and making construction more than their share on the main front of the property. He submits that the application filed under Order 26 Rule 9 read with Section 151 of CPC has not been considered by the Trial Court while passing the order dated 21.09.2023 and the same stands adjourned to 20.11.2023 for filing reply. He further submits that it was incumbent upon the Trial Court to consider the said application, keeping in view the urgency involved therein.

3. I have heard learned counsel for the petitioners and perused the relevant documents.

4. Keeping in view the facts and circumstances of the present case, it would be appropriate to direct the Trial Court to consider and decide the application filed by the petitioners/plaintiffs as expeditiously as possible. Consequently, the present petition is allowed and the Trial Court is directed to consider and decided the application dated 21.09.2023 filed by the petitioners/plaintiffs under Order 26 Rule 9 read with Section 151 of CPC for appointment of Local Commissioner,

within a period of one month from the date of receipt of copy of this order, in accordance with law.

5. Keeping in view the relief claimed in the present petition, this Court is not inclined to issue notice to the respondents to avoid unnecessary expenditure which they will incur for their appearance and to engage a counsel.

6. Needless to say that the respondents would be at liberty for recalling of this order by moving an appropriate application, if so aggrieved.

7. Registry is directed to send a copy of this order to the Trial Court through e-mail forthwith.

05.10.2023 <i>Kothiyal</i>		(NAMIT KUMAR)
		JUDGE
	Whether Speaking/reasoned	Yes/No
	Whether Reportable	Yes/No