

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

Civil Revision No.7233 of 2023

Date of Decision: 02.12.2023

Vijay Lakshmi

...Revisionist-Petitioner

Versus

Jujhar Singh & others

...Respondents

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present:- Mr. Bhupinder Singh Kundra, Advocate,
for the revisionist-petitioner.

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MEENAKSHI I. MEHTA, J.(ORAL)

By filing the instant revision-petition, the petitioner-defendant No.1 (here-in-after to be referred as 'defendant No.1') has laid challenge to the order (Annexure P-3) passed by learned Civil Judge (Junior Division), Dera Basi, District SAS Nagar, Mohali (for short 'the trial Court') on 21.10.2023 in *Civil Suit No.972 of 2021* tilted as "***Jujhar Singh versus Vijay Lakshmi and others***", whereby the application moved by respondent No.1-plaintiff (here-in-after to be referred as 'the plaintiff') for seeking the appointment of the Local Commissioner, has been allowed.

2. I have heard learned counsel for the petitioner-defendant No.1 in the present revision-petition, at the preliminary stage and have also gone through the file carefully.

3. Learned counsel for defendant No.1 contends that the appointment of the Local Commissioner would amount to the collection of evidence for the plaintiff and therefore, the impugned order is erroneous and hence, the same deserves to be set aside.

4. However, the above-raised contention is not tenable because the plaintiff has filed the afore-said Civil Suit for seeking a decree for the mandatory injunction, directing the defendants to remove the boundary wall raised by defendants No.1 & 2 and the ramp, as constructed by them in front of their house illegally, by way of encroaching upon the street and he has also prayed for the grant of relief of permanent injunction to restrain the above-referred defendants from raising any further construction in the said street. The defendants have contested the claim of the plaintiff. Order 26 Rule 9 CPC provides for the appointment of Local Commissioner in the eventuality where in any Suit, the Court deems a local investigation to be requisite or proper for the purpose of elucidating any matter in dispute. In para No.6 of the impugned order, the trial Court has categorically observed that one party in the Suit has alleged the illegal construction of the ramp and also the reduction of the width of the street in question and the other party has denied the same and in these peculiar facts and circumstances, the appointment of the Local Commissioner would not amount to collection of the evidence and rather, it would help in proper adjudication of the case.

5. As a sequel of the fore-going discussion, it follows that the impugned order does not suffer from any illegality, infirmity, irregularity or perversity so as to warrant any interference by this Court. Resultantly, the revision-petition in hand, being *sans* any merit, stands dismissed.

02.12.2023
seema

(MEENAKSHI I. MEHTA)
JUDGE

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