

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

CR No.7214 of 2023

Date of Decision: 01.12.2023

Jagjeet Singh @ Judge Singh

.....Revisionist-Petitioner.

Versus

Sunita Rani and others

.....Respondents.

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

Present:- Mr. Kanwaljeet Singh Brar, Advocate
for the revisionist-petitioner.

MEENAKSHI I. MEHTA, J. (Oral)

By filing the instant revision petition under Article 227 of the Constitution of India, the petitioner-defendant No.2 (here-in-after to be referred as 'the petitioner') has laid challenge to the order Annexure P-2 handed down by learned Civil Judge (Junior Division), Dabwali (Sirsa) (for short, 'the trial Court') in ***Civil Suit No.358 of 2019*** titled as '***Sunita Rani etc Vs Bahadur Singh etc***' on 02.09.2023, whereby the application moved by him and proforma-respondent No.3-defendant No.1 (here-in-after to be referred as 'the proforma-respondent') for seeking the appointment of the Local Commissioner, has been dismissed.

2. I have heard learned counsel for the petitioner in the present revision petition, at the preliminary stage and have also gone through the file carefully.

3. Learned counsel for the petitioner contends that the petitioner and proforma-respondent are in possession of the suit land and respondents No.1&2-plaintiffs (here-in-after to be referred as 'the plaintiffs') also claim themselves to be in possession over it and in such circumstances, the report of the Local Commissioner could have depicted the actual existing position of the suit land but vide the impugned order, the trial Court has dismissed the afore-said application and hence, this order deserves to be set-aside.

4. Concededly, the plaintiffs have filed the above-referred Civil Suit for seeking a decree for permanent injunction to restrain the petitioner and the proforma-respondent from interfering in their possession over the suit land and it being so, it is entirely for them (plaintiffs) to adduce cogent and sufficient evidence to substantiate their claim in the said Suit and it is also exclusively for the petitioner to adduce trust-worthy evidence on the record to establish the assertions, set-forth in his written statement and also to controvert/falsify/rebut the evidence that may be led by the plaintiffs to prove their (plaintiffs') averments, as canvassed in the plaint. It is well-settled that the Local Commissioner cannot be appointed for the purpose of collecting evidence for any of the parties to the litigation.

5. To add to it, the instant petition is not maintainable in view of the observations made by the Division Bench of this Court in **Pritam Singh and another Versus Sunder Lal and others, 1990 PLJ 418** to the effect that *"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"*.

6. As a sequel to the fore-going discussion, it follows that the revision petition in hand, being bereft of any merit, deserves dismissal. Resultantly, the same stands dismissed accordingly.

December 01, 2023
Yag Dutt

(MEENAKSHI I. MEHTA)
JUDGE

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