



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

**CR No.2999 of 2024
Date of Decision: 16.05.2024**

Suresh Kumar Sharma

.....Revisionist-Petitioner.

Versus

Surender Kumar

.....Respondent.

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

Present:- Mr. Afjal Hussain, 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-plaintiff (here-in-after to be referred as 'the plaintiff') has laid challenge to the order passed by learned Civil Judge (Junior Division), Kaithal (for short 'the trial Court'), on 10.04.2024 in ***CM No.83 of 2019*** titled as '***Suresh Kumar Sharma versus Surender Kumar***', whereby the application, as moved by him for seeking the appointment of the Local Commissioner, has been dismissed.

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

3. Learned counsel for the plaintiff contends that the plaintiff had filed a Civil Suit against the respondent-defendant No.1 (here-in-after to be



referred as ‘defendant No.1’) and two more defendants and vide the order dated 21.06.2019 as passed by the trial Court therein, the parties had been directed to maintain *status-quo* qua the existing state of affairs over the suit property but defendant No.1 started raising construction in this property, in flagrant violation of the above-referred direction and therefore, the plaintiff was constrained to file a petition under Order 39 Rule 2-A CPC and then, he had moved the afore-mentioned application as the report of the Local Commissioner, in respect of the actual existing position of the construction at the spot, would have facilitated the proper and just decision of the above-said petition but the trial Court has wrongly dismissed the afore-referred application vide the impugned order and hence, the said order is not legally sustainable and deserves to be set-aside.

4. However, the above-raised contention does not hold any water because it is entirely for the plaintiff to lead cogent and sufficient evidence on the record for substantiating his allegation regarding the dis-obedience/ violation of the afore-referred order, as stated to have been passed by the trial Court on 21.06.2019 in the Civil Suit filed by him (plaintiff) and it is well-settled that the Local Commissioner cannot be appointed to collect the evidence for any of the parties to the litigation.

5. Seen from yet another angle also, the instant revision-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 impugned order does not suffer from any illegality, irregularity, infirmity or perversity so as to warrant any interference by this Court. Resultantly, the revision-petition in hand, being *sans* any merit, stands dismissed.

May 16, 2024
Yag Dutt

(MEENAKSHI I. MEHTA)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>