



CR-4585-2024

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(128)

CR-4585-2024

Date of Decision: - 04.09.2024

Ritesh Nagpal @ Ritesh Kumar and another

....Petitioners

Versus

Promila Bhatia and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Dhruv Mittal, Advocate, for the petitioners.

Mr. Akshay Jindal, Advocate, for the respondents.

VIKAS BAHL, J. (ORAL)

1. Present revision petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 17.07.2024 (Annexure P-18) passed by the Civil Judge (Junior Division), Karnal whereby the objections filed by the petitioners against the report of the Local Commissioner were dismissed without examining the Local Commissioner.

2. On 13.08.2024, this Court was pleased to pass the following order: -

“Inter alia contends that in the present case earlier also, a local Commissioner was appointed to which the petitioners had taken objection to and the trial Court vide order dated 04.03.2020 had rightly observed that the objections raised on report of the local Commissioner shall be decided at the final stage of hearing. It is further submitted that subsequently a second local Commissioner was



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*appointed, who had submitted his report on 30.10.2023 and against the said report, objections (Annexure P-16) were filed by the petitioners. It is argued that the said objections were required to be decided after the said local Commissioner had been examined and cross-examined, whereas the trial Court vide order dated 17.07.2024 had dismissed the said objection without letting the petitioners cross examine the local Commissioner on the points raised in the objection petition. It is submitted that the same would cause prejudice to the petitioners at a subsequent stage when the said local Commissioner is to be cross-examined. In support of the his arguments, learned counsel for the petitioners has relied upon the judgments of a Coordinate Bench of this Court in **Modan Singh vs. Gram Panchayat** reported as **2022(3) R.C.R. (Civil) 425**, **Roshan Lal Singla vs. Suresh Kumar** reported as **2008(8) R.C. R. (Civil) 355** and **Chander Pal vs. Pehlwan Daya Nand and others** reported as **2015 (11) R.C.R. (Civil) 105** and the judgment of the Hon'ble Division Bench of this Court in **Balbir Dewan Cold Storage and General Mills vs. Naveen Chander** reported as **1989 AIR Punjab and Haryana 257**.*

Notice of motion for 02.09.2024.

To be taken up at 12:00 noon.”

3. Learned counsel for the respondents had appeared on 02.09.2024 and had sought an adjournment to get instructions in the matter.

4. Learned counsel for the respondents has submitted that although the respondents have no objection in case the impugned order is set aside and the objections filed by the petitioners are considered at the time of final argument, but the said concession should not be construed as holding that the objections of the petitioners are meritorious nor should it be construed as an estoppel against the respondents to raise all pleas in favour of the said report and against the objections. It is further submitted

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that the present suit filed by the respondents is of the year 2017 and it has been prayed that the trial Court be requested to decide the suit as expeditiously as possible.

5. Learned counsel for the petitioners has submitted that he has no objections to the said course of action.

6. Keeping in view the above-said facts and circumstances, the present revision petition is partly allowed and the impugned order dated 17.07.2024 (Annexure P-18) is set aside, with the observation that the objections (Annexure P-16) filed by the petitioners to the report of the Local Commissioner dated 30.10.2023 would be considered at the time of final arguments of the case.

7. It is clarified that this Court has not considered the merits of the objections and the same would be considered by the trial Court at the stage of the final arguments and the present order should not be construed as either accepting the objections or rejecting the objections and it would be open to both the parties to argue in favour or against the objections and also in favour or against the Local Commissioner report. Since the suit is of the year 2017, the trial Court is requested to decide the same as expeditiously as possible and the counsels appearing for the petitioners as well as for the respondents before the trial Court are also requested to fully assist the Court for the expeditious disposal of the case.

September 04, 2024
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No