



CR-5889-2024(O&M)

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IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH

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CR-5889-2024(O&M)

Date of decision : 18.11.2024

Murari Lal

... Petitioner

Versus

Executive Engineer Haryana PWD (B&R) and another

... Respondents

***CORAM: HON'BLE MR. JUSTICE VIKAS BAHL***

Present: Mr.Ashish Tewatia, Advocate  
for the petitioner.

**VIKAS BAHL, J.(ORAL)**

**CM-19822-CII-2024**

1. This is an application under Order 9 Rule 9 read with Section 151 CPC for restoration of the revision petition.

2. For the reasons stated in the application, which is duly supported by an affidavit, the application is allowed and the revision petition is ordered to be restored to its original number.

**CR-5889-2024**

1. This is a Civil Revision Petition filed under Article 227 of the Constitution of India against the impugned order dated 21.08.2024 (Annexure P-3) vide which the Civil Judge (Jr.Div.), Palwal, had dismissed the application for appointment of Local Commissioner.

2. The petitioner is the plaintiff, who had filed a suit for



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permanent injunction. An application was moved by the petitioner for appointment of Local Commissioner. Vide impugned order dated 21.08.2024, the said application was dismissed on the ground that earlier also, similar application had been filed and the same was dismissed vide order dated 05.05.2023 and that a second application with the same prayer was not maintainable. The order passed in the first application dated 05.05.2023 vide which the application was dismissed on merits has not been challenged by the petitioner. Thus, on the said short ground alone, the present revision petition deserves to be dismissed.

3. Additionally, it would be relevant to mention that the present revision petition challenging the order rejecting the application for appointment of Local Commissioner, is not maintainable.

4. The Division Bench of this Court in the case of ***Pritam Singh vs. Sunder Lal*** reported as ***1990(2) PLR 191*** had observed 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. Learned Single Judge, vide judgment dated 18.07.2022 passed in ***Civil Revision No.2752 of 2022*** in case titled as ***“Harchand Vs. Karambir Singh and another”***, by placing reliance upon the above-said judgment of Division Bench and also the judgment of the learned Single Bench in ***“Raksha Devi Vs. Madan Lal and others”***, reported as ***[2017 (3) PLR 249]***, had observed that no revision would be maintainable against an order dismissing an application for appointment of a Local Commissioner. The relevant portion of the said judgment in ***Harchand's*** case (supra) is



reproduced as under: -

*“4. Learned counsel appearing on behalf of the plaintiff-petitioner has contended that the appointment of the Local Commissioner would be necessary in order to bring on record the existing position of the suit property.*

*5. Heard.*

*6. In the present case the challenge is to the order dismissing the application for appointment of a Local Commissioner. A Division Bench of this Court in the case of Pritam Singh Vs. Sunder Lal [1990(2) PLR 191] inter-alia held as under :*

*“6. After going through the judgments cited in the reference order, we do not find that the earlier judgment in Harvinder Kaur's case (supra) requires any reconsideration. 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. The distinction sought to be made by the learned Single Judge in view of the Judgment in M/s Sadhu Ram Bali Ram's case (supra) was clearly noticed by the Division Bench in Harvinder Kaur's case (supra) and it was observed:*

*“It may be observed that the facts of M/s Sadhu Ram Bali Ram's case were different as in that case the onus of an issue had been wrongly placed and while deciding that question, it was held that such an order would be revisable.”*

*Apart from that, placing the onus of an issue has something to do with the rights of the parties whereas refusing to appoint a Commission under Order 26, Rule 9, Code of Civil Procedure, has nothing to do with the rights of the parties as such. It is the discretion of the Court to appoint a Commission there under and if the Court refuses to*

*appoint a Commission, then no right of any party can be said to be prejudiced as such.”*

*7. Similar view has been taken by this Court in the case of Smt. Raksha Devi Vs. Madan Lal & Ors. [2017(3) PLR 249] wherein it has categorically been held that no revision would be maintainable against an order dismissing an application for appointment of a Local Commissioner. It is trite that an order refusing to appoint a Local Commissioner does not decide any issue nor does it adjudicate any rights of the parties for the purpose of the suit and hence would not be a revisable order.*

*8. In view of the law laid down by the Division Bench of this Court, I do not find any illegality or irregularity in the order passed by the Court below.*

*9. The revision petition is accordingly dismissed.  
Pending applications, if any, also stand disposed off.”*

5. No contrary judgment has been cited on behalf of the learned counsel for the petitioner.

6. In view of the same, the present revision petition deserves to be dismissed and is accordingly dismissed.

(VIKAS BAHL)  
JUDGE

November 18, 2024.  
*Davinder Kumar*

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|-----------------------------|--------|
| Whether speaking / reasoned | Yes/No |
| Whether reportable          | Yes/No |