



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

141

CR-2441-2025 (O&M)
Date of Decision: 24.04.2025

M/s Samdu India Private Limited

...Petitioner

V/s

Taras Pal and others

...Respondents

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Tanvir Singh Attariwala, Advocate, for the petitioner.

VIKRAM AGGARWAL, J (ORAL)

The present revision petition is directed against the order dated 06.03.2025 (Annexure P-1) passed by the Court of learned Civil Judge (Jr. Divn.), Gurugram, vide which the application filed by the petitioner-defendant under Order 26 Rule 9 of the Code of Civil Procedure, 1908 (for short the "CPC") for the appointment of a local commissioner was dismissed.

2. The facts, as emanating from the revision petition, are that a suit for possession by partition with consequential relief of permanent injunction was filed by the respondents-plaintiffs against the petitioner-defendant alleging that parties to the *lis* are co-sharers/co-owners in possession of the suit land (fully described in the suit), situated in Village Khatola, Tehsil & District Gurgaon. The suit was opposed by the petitioner-defendant by way of written statement (Annexure P-3), wherein a stand was taken that a factory was constructed at the spot and the construction had been raised almost 25 years back. Certain others grounds were also raised. During the pendency of the suit, an application under Order 26 Rule 9 CPC (Annexure P-4) was



moved by the petitioner for the appointment of a local commissioner. The said application was opposed by way of reply (Annexure P-5). By way of the impugned order, the application was dismissed leading to the filing of the present revision petition.

3. I have heard learned counsel for the petitioner.

4. Learned counsel for the petitioner has submitted that the only endeavour of the petitioner was to bring the actual position at the spot before the trial Court so that the injunction application for the grant of *ad interim* injunction could be effectively decided. He submits that in the absence of the factual position at the spot, the decision in the application for ad interim injunction may cause a loss to the present petitioner.

5. I have considered the submissions made by learned counsel for the petitioner but find the same to be devoid of merit.

6. If the only endeavour of the petitioner is to prove the existence of a factory, the same can be done by producing documents to prove its existence. Of course, the petitioner will get a chance to even prove the said documents during the course of evidence. Even for the purpose of decision of the application for the grant of ad interim injunction, many documents to prove the existence of the factory can be produced. On this very ground, the learned trial Court dismissed the application for the appointment of a local commissioner. I do not find any illegality or jurisdictional error in the order of the trial Court warranting interference.

7. That being so, I do not find any merit in the present revision petition and the same is accordingly dismissed.

Pending application(s), if any, shall also stand disposed of.

(VIKRAM AGGARWAL)
JUDGE

April 24, 2025

vcgarg

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No