



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

119

CR-4240-2024 (O&M)
Date of Decision: 20.02.2025

Ashok Kumar

...Petitioner

V/s

Sanoj Kumar and others

...Respondents

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. K.B. Raheja, Advocate, for the petitioner.

VIKRAM AGGARWAL, J (ORAL)

The present revision petition is directed against the order dated 17.02.2024 (Annexure P-1), passed by the Court of learned Civil Judge (Jr. Divn.), Fazilka, vide which the application moved 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 the respondents-plaintiffs filed a suit for permanent injunction restraining the petitioner-defendant from interfering in the peaceful possession of the plaintiffs over land measuring 11 *kanals* 7 *marlas* (fully described in the plaint) situated within the revenue estate of Village Bodhiwala Peetha Tehsil and District Fazilka (hereinafter referred to as the "land in dispute"). During the pendency of the suit, an application (Annexure P-2) was moved by the petitioner-defendant for the appointment of a local commissioner to report as to who was in possession of the land in dispute. The application was opposed by way of reply (Annexure P-3). By way of the impugned order, the said application was dismissed leading to filing of the present revision petition.

3. Learned counsel for the petitioner submits that the trial Court erred in dismissing the application for the appointment of a local commissioner, for, the only thing that the local commissioner was required to



do was to report the position existing at the spot. Learned counsel submits that the plaintiffs-respondents were never in possession of the land in dispute and, therefore, the application should have been allowed by the trial Court.

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

5. The heading and the prayer made in the application for the appointment of a local commissioner itself shows that petitioner-defendant wanted to get a report about the possession of the land in dispute which is not permissible. It is settled law that whosoever files a suit would have to prove his/her case by leading cogent evidence. In any case, the petitioner is the defendant and it would be for the plaintiffs to prove the case by leading cogent evidence. By way of the impugned order, the application for ad interim injunction filed by the respondents-plaintiffs was also dismissed. I do not find any illegality in the order passed by the trial Court rejecting the prayer made by the petitioner-defendant for the appointment of a local commissioner.

6. Even otherwise, it is settled law that when an application for the appointment of a local commissioner is decided, a revision petition would not lie against such order as it does not decide any issue nor adjudicates rights of the parties. Reference can be made to the judgment of a Division Bench of this Court in the case of *Pritam Singh and another vs. Sunder Lal and others*, 1990(2) PLR 191.

7. In view of the aforesaid facts and circumstances, 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

February 20, 2024
vcgarg

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No