

**CR-6568-2024 (O&M)****-1-****IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH****(129)****CR-6568-2024 (O&M)
Date of decision:- 25.03.2025****Rana Singh and others****... Petitioners****Versus****Gram Panchayat, village Nai Majra, Teshil Nawanshahr, District SBS
Nagar through its Sarpanch Dilawar Singh****... Respondent****CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL**

Present:- Mr. Nitish Garg, Advocate
for the petitioners.

**********SUVIR SEHGAL, J. (ORAL)**

1. Aggrieved of order dated 03.07.2024, Annexure P-5, whereby an application filed by the petitioners/plaintiffs for appointment of a Local Commissioner has been rejected, they have approached this Court by way of instant revision petition filed under Article 227 of the Constitution of India.
2. Counsel for the petitioners submits that plaintiff filed a suit for permanent injunction restraining the defendant-Gram Panchayat from diverting sewerage water of the area in the village pond in khasra No.523/1 by changing its natural course. Counsel asserts that as the respondent had collected construction material and machinery for laying down of undergoing pipeline and intend to speedily complete the work. Counsel submits that it is, therefore, necessary to examine the existing condition of the property for which purpose,



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an application, Annexure P-3, has been filed for appointment of a Local Commissioner to visit the spot and submit his report. He contends that after contest, this application has been erroneously declined by the Trial Court. It has been urged that the report of the Local Commissioner would aid the Trial Court arriving at a just decision. He has placed reliance upon the judgments of this Court in **Jitender @ Leela Versus Rashma, Law Finder Doc ID#1951697; Mohd. Ismail @ Ismaila (deceased thr. Lrs.) Versus Anil Kumar Goyal (Modi), 2023 (2) RCR (Civil) 437** and **Phoola Devi @ Phula Devi Versus Banwari Lal, Law Finder Doc Id #2160551.**

3. Having heard counsel for the petitioners and on perusal of the record, this Court is of the view that the revision petition is not maintainable in view of the judgment of a Division Bench of this Court in **Pritam Singh Versus Sunder Lal, 1990 (2) PLR 191.** This Court has held that in order refusing the appointment of a Local Commissioner does not decide any issue, nor does it adjudicate any rights of the parties and the order is not revisable. The relevant observations of the Division Bench are reproduced hereunder:-

“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 re-consideration. 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."

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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, Civil Procedure Code, has nothing to do with the rights of the parties as such. It is the discretion of the Court to appoint a Commission thereunder and if the Court refuses to appoint a Commission, then no right of any party can be said to be prejudiced as such.”

4. In view of the clear enunciation of law by a Division Bench of this Court, the judgments of Co-ordinate Benches relied upon by the counsel for the petitioners are not applicable. There is no irregularity or illegality in the order passed by the Trial Court.
5. Revision petition is dismissed.
6. Pending application shall stand disposed off.

25.03.2025
Kamal

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No