



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

CR-2262-2016 (O&M)

Date of Decision: January 08, 2025

Puran Chand and another

...Petitioners

Versus

Diley Ram

...Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Vinod Pundir, Advocate for
Satbir Rathore, Advocate
for the petitioners.

Mr.Vijay Kumar, Advocate for
Mr.Sunil Agnihotri, Advocate
for the respondent.

ARCHANA PURI, J.

Challenge in the present revision petition is to the order dated 02.03.2016 passed by learned trial Court, whereby, an application filed by the plaintiffs-petitioners for appointment of Local Commissioner was dismissed.

In pursuance of the notice issued, respondent made appearance through counsel.

Learned counsel for the parties heard.

As culled out from the paperbook, the petitioners-plaintiffs have initially filed a suit for permanent injunction, thereby, restraining the

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respondent-defendant from interfering into the peaceful possession of the land measuring 1 Kanal 2 Marlas, as detailed in the headnote of the plaint, copy whereof is Annexure P-1. However, during the pendency of the suit, alternative plea of possession of the land measuring 15 Marla, bearing southern side of disputed khasra No.3284(1-2) was also made. Thereupon, an application for appointment of a Local Commissioner was filed.

Even, reply was filed and vide impugned order, the said application was dismissed.

It is submitted by learned counsel for the petitioners that since there was an encroachment made, at the behest of the respondent-defendant, therefore, the Local Commissioner ought to have been appointed by learned trial Court and it has been erroneously observed that Local Commissioner is not to collect the evidence, which can be taken in the Court. As such, a prayer has been made for the acceptance of the revision petition.

On the contrary, learned counsel for the respondent has submitted that even though, at first instance, suit for permanent injunction was filed by the petitioners-plaintiffs, thereby, asserting their possession over the suit property, but however, during the pendency of the suit, after obtaining the stay, an amendment had been sought and in the alternative, they have sought relief of possession of the land measuring 15 Marla. In fact, while making reference to the amended plaint, coming on record as Annexure P-1, it is submitted that the alternative relief, so sought, is false one, for which, Local Commissioner, as such, cannot be appointed.

At the very outset, it is pertinent to mention that the even

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though, the petitioners had taken the plea that it was during the pendency of the suit for permanent injunction, that the defendant had forcibly occupied an area of 15 Marlas, bearing southern side of disputed khasra number, but however, in the amended plaint, which is coming forth on record, as Annexure P-1, there is no mention made, as to when and how and under what circumstances, this possession was taken over.

In the light of the same, solely on account of possession, having been taken over as asserted, the Local Commissioner, as such, cannot be appointed, to facilitate the collection of evidence.

In the given circumstances, the impugned order calls for no further interference. Hence, the revision petition sans merit and is hereby dismissed.

January 08, 2025
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No