



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH  
113 CR-56-2025 (O&M)  
Date of decision: 10.01.2025

Yadwinder Singh

...Petitioner(s)

Vs.

Kulwant Singh & Another

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Arvind Kashyap, Advocate  
for the petitioner.

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**NIDHI GUPTA, J.**

Present petition under Article 227 of the Constitution of India seeking quashing of impugned order dated 04.12.2024 (Annexure P1) passed by Civil Judge (Junior Division), Fatehgarh Sahib whereby the learned Executing Court below has dismissed the application of the petitioner/ Judgment Debtor for appointment of Local Commissioner, being against law and suffering patent illegality.

2. I have heard learned counsel for the petitioner and perused the case file in great detail.

3. The prayer of the petitioner is liable to be rejected in the first instance as it is established position in law, that an order allowing or rejecting application of either of the parties for appointment of Local Commissioner is not a revisable order. The present revision petition is not maintainable in view of judgment of this Court in "**Banarsi Dass v Sunita Rani @ Sarita Rani and others**", Law Finder Doc Id # 827241, wherein it has been held that order appointing or dismissing application for



appointment of Local Commission is not revisable. Even two Division Benches of this Court in “**Harvinder Kaur v Godha Ram**”, 1979 PLJ 562 and “**Pritam Singh v Sunder Lal**”, 1990(2) PLR 191, have held that Revision Petition is not maintainable against an order of the Court below dismissing or allowing an application for appointment of Local Commissioner.

4. It is the consistent position in law, that an order refusing to appoint Local Commissioner does not decide any issue nor adjudicate any rights of the parties for the purpose of the suit and therefore, is not revisable. Refusing to appoint, or appointing, a Commissioner has nothing to do with the rights of the parties and it is purely the discretion of the Court. If the Court refuses to appoint, or appoints, a Local Commissioner, no right of the parties is prejudiced. It has further been held that the instrumentality of Court cannot be used to collect evidence on behalf of either party. Thus, orders allowing appointment, or rejecting appointment, of Local Commissioner, are not amenable to revisional jurisdiction.

5. Moreover, in the present case the learned Executing Court has noticed in the impugned order that the petitioner has filed the present application just to delay the execution and so that the respondent-decree holder may not get the fruits of decree passed as far back as in 2016. Respondent-decree holder had filed a suit for specific performance against the petitioner which was partly decreed vide



judgment and decree dated 21.01.2016 and for recovery of Rs.4 lakh + interest thereupon. Appeal filed by the petitioner against the said judgment and decree was also dismissed on 04.05.2022. Subsequently, the respondent thereof had filed execution application dated 22.09.2022 (Annexure P2); to which the petitioner had duly filed the objections; which were dismissed by the Executing Court vide order dated 04.08.2023 (Annexure P6). Thereafter, even third-party objections dated 19.09.2023 (Annexure P5) were filed in the matter which were also dismissed by the Executing Court vide order dated 25.09.2023 (Annexure P7). Thereafter, the petitioner filed present application dated 05.10.2023 (Annexure P8) for appointment of Local Commissioner, which has been dismissed vide impugned order dated 04.12.2024 (Annexure P1).

6. Learned counsel for the petitioner is unable to controvert the legal position as noticed above.

7. In view of the above present petition is **dismissed**.

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

**10.01.2025**  
Sunena

**(Nidhi Gupta)**  
Judge

**Whether speaking/reasoned:** Yes/No

**Whether reportable:** Yes/No