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

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CR-1658-2025 (O&amp;M)

Date of decision: 20.03.2025

Amarnath (since deceased) through LRs  
and another

... Petitioners

Vs.

Ram Ratti and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL**

Present:- Mr. Rajesh Arora, Advocate  
for the petitioners.

**SUVIR SEHGAL J.**

1. Aggrieved of order dated 30.01.2025, Annexure P-1, whereby an application filed by them for appointment of a Local Commissioner has been rejected, petitioners-defendants No. 4 and 7 have approached this Court by way of instant revision petition.

2. Counsel for the petitioners submits that respondent No.1 and 2/plaintiffs filed a suit Annexure P-4, for declaration to the effect that sale deeds dated 26.07.2012 and 06.08.2015 and subsequent entries in the revenue records are not binding upon them as well as for consequential relief of permanent injunction restraining the defendants from alienating, mortgaging or raising construction on the suit land on the basis of the forged sale deeds. He states that the petitioners, who have been impleaded as defendants No. 4 and 7 in the civil suit, had also purchased



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a piece of land from defendant No.1, Maan Singh. He urges that there is a dispute regarding the dimensions of the plots sold by defendant No. 1 and an application, Annexure P-9, was filed by the petitioners for appointment of a Local Commissioner to demarcate the suit property, which has been declined by the trial Court without appreciating the factual position. It is his assertion that the report of the Local Commissioner would aid the trial Court in arriving at the just decision. He has placed reliance upon:-

- (i) *Haryana Waqf Board Versus Shanti Sarup and others,*  
*(2008)8 SCC 671;*
- (ii) *Raj Kumar Versus Tarlok Singh and others, 2019(196)*  
*AIC 849;* and
- (iii) *Balwant Singh and another Versus Ankit and others,*  
*2024(2) RCR (Civil) 174.*

3. I have heard counsel for the petitioners and considered his submissions besides examining the paper book with his able assistance.

4. Petitioners have laid challenge to order, Annexure P-1, whereby an application for appointment of a Local Commissioner filed under Order 26 Rule 9, CPC has been dismissed. A Division Bench of this Court in *Pritam Singh and another Versus Sunder Lal and others,* *1990 (2) PLR 191* has held that the order refusing to appoint a Local Commissioner, does not decide any issue nor adjudicate any rights between the parties. Such an order is not revisable. The relevant observations of the Division Bench deserve to be noticed and 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 v. Godha Ram, ILR 1979(1) Punjab and Haryana 147, 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 v. Ghansham Dass, AIR 1975 Punjab and Haryana 174, 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."*

*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.*

7. *In M/s. Sadhu Ram Bali Ram's case (supra), it was held that when the matter is looked at keeping in view the provisions of the Evidence Act, then a decision given by the trial Court on the placing of onus of an issue wrongly certainly adjudicates for*



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*the purpose of the suit, some right or obligation of the parties in controversy and such an order would fall within the words "case decided". Under the circumstances, the opinion referred to stands already answered by the Division Bench of this Court in Harvinder Kaur's case (supra) and we do not think that it requires re-consideration."*

5. A similar view has been taken by a co-ordinate Bench of this Court in **Smt. Raksha Devi Versus Madan Lal and others, 2017(3) PLR 249**. In view of the settled legal position, an order refusing to appoint a Local Commissioner is not revisable. The judgments relied upon by counsel for the petitioners are not applicable to the facts of the present case. There is no perversity or illegality in the order passed by the trial Court.

6. Finding no merit in the revision petition, it is dismissed with no order as to costs.

20.03.2025

pooja saini

(SUVIR SEHGAL)

JUDGE

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