



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

285

CR No.1386 of 2024 (O&M)

Date of Decision :29.07.2025

Supinder Singh

.....Petitioner

Versus

Dev Raj and others

..... Respondents

CORAM: HON'BLE MR.JUSTICE VIKRAM AGGARWAL

Present : Mr. S.P.S.Aulakh, Advocate for the petitioner.

Mr. Vijay Rana, Advocate for respondents No.1 and 2.

VIKRAM AGGARWAL, J. (Oral):

The instant revision petition, preferred under Article 227 of the Constitution of India, assails the order dated 20.01.2024 (Annexure P-10), passed by the Court of Civil Judge (Jr. Divn.), Jalandhar, vide which the application (Annexure P-6), filed by the petitioner for appointment of a Local Commissioner seeking demarcation of the suit land was dismissed.

2. A suit for permanent injunction (Annexure P-1), restraining the respondents-defendants No.1 and 2 from interfering in the peaceful possession of the petitioner-plaintiff over property (fully described in the plaint) (hereinafter referred to as 'the suit land'), situated in the revenue limits of Basti Danishmanda Tehsil and District Jalandhar by raising illegal construction, was filed. The case set up was that the petitioner-plaintiff and respondents-defendants No.3 to 5 were the joint owners in possession of the suit land measuring 43 kanals 9 marlas. 11 kanals 9 marlas of the land out of said land had been sold to different persons leaving a balance of 32 kanals.



Respondents-defendants No.1 and 2, who were stated to be the owners of agricultural land measuring 8 kanals 8 marlas each were stated to have conspired with some mischievous persons to encroach upon the land of the petitioner-plaintiff and defendants No.3 to 5. They had collected building material on the suit land with a view to raise illegal construction leading to the filing of the suit.

3. Vide order dated 03.06.2023 (Annexure P-2), *ad interim* injunction was granted in favour of the petitioner-plaintiff. The stay was ordered to be continued vide order dated 14.06.2023 (Annexure P-3).

4. The suit was opposed by way of written statement (Annexure P-5) in which all averments as regards encroachment etc. were denied.

5. An application (Annexure P-6) was moved by the petitioner-plaintiff seeking demarcation of the suit property by a revenue officer to be appointed by the Court. This application was opposed by way of reply (Annexure P-8). By way of the impugned order, the application was dismissed, leading to the filing of the instant revision petition.

6. I have heard learned counsel for the parties.

7. Learned counsel for the petitioner submits that the trial Court erred in dismissing the application. He submits that the only way to go to the root of the matter would be by way of appointment of a Local Commissioner. He asserts that under similar circumstances, **Civil Revision No.2463 of 2023** was decided by a Co-ordinate Bench in the case of **Paramjit Sidhu Vs. Inderpreet Singh and others, 2024(1) RCR (Civil) 80**. He submits that under the circumstances, the impugned order is not sustainable and deserves to be set aside.



8. Per contra, learned counsel for contesting respondent Nos.1 and 2 submits that there is no illegality in the impugned order. He submits that the process of the Court cannot be utilized for collecting evidence. He further submits that the present revision petition, in fact, would not be even maintainable.

9. I have considered the submissions made by learned counsel for the parties.

10. The case of the petitioner-plaintiff is that the respondents-defendants No.1 and 2 were trying to encroach upon the suit land owned by the petitioner and respondents-defendants No.3 to 5. It would be solely for the petitioner-plaintiff to prove his own case by leading evidence. The process of the Court cannot be utilized to collect evidence. In any case, if at a subsequent stage, the Court is of the opinion that demarcation is required, it can always so direct. The trial Court rightly observed that since the identification of the property was not in dispute, there would be no occasion to order demarcation. I do not find any illegality in the same warranting interference.

11. I have gone through the judgment relied upon by learned counsel for the petitioner. The same would not come to his aid as the said judgment was passed in the peculiar facts of that case.

12. Even otherwise, it is well settled that a revision petition against an order deciding an application for the appointment of the Local Commissioner is not maintainable. A similar issue came up before this Court earlier in the case of **Pritam Singh and another v. Sunder Lal and others, 1990(2) PLR 191**, in which a Division Bench of this Court held that an interim order passed for the appointment of a Local Commissioner, does not decide any issue, nor



does it adjudicate upon the rights of the parties and therefore, the same is not revisable. Reliance in this regard was placed upon a judgment of this Court in the case of **Harvinder Kaur v. Godha Ram, ILR 1979 (1) Punjab and Haryana 147**. These judgments were further relied upon in the case of **Harbhajan Singh and another v. Gurmail Singh and others, 2015(9) RCR (Civil) 163**, by a Coordinate Bench. While relying upon the judgment in **Harvinder Kaur's case (supra)** and **Pritam Singh and another's case (supra)** as also two other judgments of Coordinate Benches, a similar view was taken in which it was held as under-

“4. After hearing counsel for the parties, this Court is of the opinion that firstly, it is settled principle that against an order declining the appointment of a Local Commissioner, a revision petition is not maintainable. Two Division Bench judgments of this Court have held to the said effect in Harvinder Kaur v. Godha Ram ILR 1979 (1) P&H 147 and Pritam Singh & another v. Sunder Lal & others 1990 (2) PLR 191. The said view has also been followed by two Single Judge Benches of this Court in SumerChand Jain v. Vishnu Bhagwan Mangla 2006 (2) RCR (Civil) 445 and Rajiv Kumar Batra v. Kashmiri Lal Sika, to the effect that merely because a revision petition has been filed under Article 227 of the Constitution of India, the binding precedent of the Division Benches cannot be wished away.”

13. That being so, I do not find any merit in the instant revision petition and the same is accordingly, dismissed.

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

(VIKRAM AGGARWAL)
JUDGE

29.07.2025

Manoj Bhutani

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