

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

Civil Revision Nos. 22 of 2008 & 23 of 2008

Date of decision June 30, 2008

1. Civil Revision No. 22 of 2008

Vinay Kumar**Petitioner**

Versus

Vijay Rattan and another**Respondents**

2. Civil Revision No. 23 of 2008

Shri Vinay Kumar**Appellant**

Versus

Shri Vijay Rattan and others.**Respondents**

Coram

The Hon'ble Mr. Justice Dev Darshan Sud, J.

Whether approved for reporting?¹

Civil Revision No. 22 of 2002

For the Petitioner : Shri P.C. Sharma, Advocate.
For the Respondent No.1 : Shri Ajay Mohan Goel, Advocate
For the Respondent No.2 : Shri Sharwan Dogra, Advocate.

Civil Revision No. 23 of 2002

For the Petitioner : Shri P.C. Sharma, Advocate.
For the Respondent No.1 : Shri Ajay Mohan Goel, Advocate
For the Respondent No.2 : Shri Sharwan Dogra, Advocate.

¹ *Whether reports of Local Papers may be allowed to see the judgment?*

Dev Darshan Sud, J.

Both these revision petitions are being disposed of by a common order as they deal with the same controversy. The petitioner had approached this Court by way of a petition under Article 227 of the Constitution of India praying that the order passed for appointing Local Commissioner and accepting his report be set aside in the interest of justice as the entire procedure as adopted was against law. This Court by its order dated 28.5.2007 in CMP MO No. 109 of 2007 allowed the prayer of the petitioner herein and issued directions to the trial court to entertain objection petition, if any, preferred by the petitioner and to dispose of the same in accordance with law.

The petitioner, thereafter, approached the trial court and an application for amendment of the pleadings under Order 6 rule 17 of Code of Civil Procedure was also made by plaintiff/respondent. I am not entering into the merit of the controversy on facts. I am pained to note that the counsel appearing for the petitioner has specifically urged that his right to be heard has been closed by the learned Court below. These averments have been made in detail in paragraph 12 of the Civil Revision 22 of 2008 and paragraph 7 of Civil Revision No. 23 of 2008. Admittedly, a Court of law cannot act in the manner which leaves a feeling of distrust in the mind of a litigant. Justice must not only be one but seen to be done. If the allegations made are true, it reflects a very sad state of affairs which cannot be tolerated. Courts of law are meant to do justice and not to ride rough shod on the rights of parties. Without entering into the controversy, as to whether the Presiding Officer did behave in the manner as alleged, which would rake up more disputes I am satisfied that no proper hearing has been given to the petitioner herein.

In view of the fact and circumstances, both the revision petitions are allowed. The impugned order passed in both the petitions is quashed and set

aside with a direction that the matter shall be decided afresh in accordance with law. There shall be no order as to cost. Parties to appear before the trial Court on 14th of August, 2008. Record of the Courts below, if received, be sent back immediately.

June 30, 2008
(ms)

(Dev Darshan Sud),
Judge