

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.M. No. 25555-CII of 2009 and
CR No. 6293 of 2009

Date of Decision: 30.10.2009

Ravinder Singh

....Petitioner.

Versus

Raj Kumar and others

...Respondents.

CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.

PRESENT: Mr. Deepak Arora, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

C.M. No. 25555-CII of 2009

Allowed as prayed for.

C.R. No. 6293 of 2009

The plaintiff-petitioner has approached this Court by way of instant revision petition under Article 227 of the Constitution of India challenging the order dated 17.9.2009 (Annexure P-6) passed by the trial court whereby the application filed by him under Order XXVI Rule 9 of the Code of Civil Procedure for appointment of Local Commissioner, was dismissed.

The trial court while dismissing the aforesaid application of the plaintiff-petitioner, in para 5 of its order had recorded as under:-

“5. Thus, in the present case also since plaintiff is claiming possession over the Khasra No. 116 and

findings have already been given to this effect, thus, there is prima facie nothing to be decided with respect to possession in the present case. So far as the question with respect to appointment of Local Commissioner is concerned, plaintiff has produced on record site plan and Aks Shajra and site plan is correct as per position shown in Aks Shajra. Thus, prima facie it seems that portion shown in red colour marked ABCD in site plan is part and parcel of Khasra No. 116, and the thing which is clearly visible from the documents is not required to be corroborated by the report of Local Commissioner. Hence there is no need to appoint Local Commissioner. Further, the plaintiff will have enough opportunities to lead evidence and to prove the thing which he wants to get proved by way of appointing LC. Keeping in view above said observations, application is dismissed.”

In view of the above and after hearing the learned counsel for the petitioner, no ground to exercise its jurisdiction by this Court under Article 227 of the Constitution of India is made out. Accordingly, there is no merit in the revision petition and the same is hereby dismissed.

October 30, 2009
gbs

(AJAY KUMAR MITTAL)
JUDGE