

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

(Thorough Video Conferencing)

Civil Revision No.1021 of 2021

Date of Decision: 30.04.2021

SHAMSHER SINGH AND OTHERS

.....Petitioners

V/s.

BALJIT SINGH

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL.

Present: Mr. R.K. Shukla, Advocate,
for the petitioners.

MANJARI NEHRU KAUL, J. (Oral)

The instant petition is filed by the petitioners for setting aside the order dated 22.03.2021 (Annexure P-7) passed by the Civil Judge (Junior Division) Samana vide which application filed by the petitioners-plaintiffs for appointment of the Local Commissioner was dismissed.

The petitioners-plaintiffs have filed a suit for permanent injunction to restrain the defendant from interfering in the peaceful possession of the suit property annexed with the plaint and the site plan (Annexure P-1 and P-2 respectively). The case of the petitioners is that the site plan produced before the Court below by the defendant and attached with the sale deed in his favour with respect to the suit property is non-existent. Still further, the respective site plans which have been produced by the parties before the Court below are different from each other, hence, the appointment of a Local Commissioner is necessitated to visit the site plan and report about the correct factual position of the property with respect to the correctness of site plans so produced by the both the parties.

I have heard learned counsel for the petitioners, perused the impugned order and material on record.

The impugned order(s) comes across as a very well reasoned one and does not suffer from any illegality much less perversity which would warrant interference of this Court. It need not be over emphasized that it is a settled law that in a suit for permanent injunction, the matter pertaining to the possession of the suit property would have to be decided by the Court on the basis of evidence, oral or documentary, which would be led by the parties and not through a Local Commissioner as it would amount to gathering of evidence. In the case in hand, disputed questions of fact are involved, which can only be adjudicated upon by the Court once the issues are framed and evidence led by the parties.

In view of the aforementioned facts and circumstances, the instant petition stands dismissed.

April 30, 2021

Ess Kay

**[MANJARI NEHRU KAUL]
JUDGE**

Whether speaking / reasoned : *Yes / No*

Whether Reportable : *Yes / No*