(1997) 12 P&H CK 0025

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 5308 of 1997 and Civil Miscellaneous No. 13883-CII of 1997

Madan Lal	APPELLANT
Vs	
Hari Chand and Others	RESPONDENT

Date of Decision: Dec. 16, 1997

Citation: (1998) 2 CivCC 188 : (1998) 119 PLR 102 : (1998) 1 RCR(Civil) 626 : (1998) 1 RCR(Rent) 262

Hon'ble Judges: Sat Pal, J

Bench: Single Bench

Advocate: S.K. Jain, for the Appellant;

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Sat Pal, J.
The only point raised by the learned counsel for the petitioner is that it was premature for the learned trial Court to appoint the Local Commissioner in this case. The learned counsel submits that this position could have arisen after the petitioner-tenant had led his evidence.

2. I however, do not find any merit in this contention. From the impugned order, I find that two witnesses of the landlord have already been examined and from the pleadings on the record, the court found it necessary to appoint an engineer as Local Commissioner as the point involved could not be adjudicated upon without the assistance of a a technical man.

3. Learned counsel further submits that the courts should not appoint a local Commissioner to assist a party to collect evidence where it can get evidence itself. In support of his submission, the learned counsel has placed reliance on a judgment of the Orissa High Court in Basanta Kumar Swain Vs. Baidya Kumar Parida and Others, . I, however, do not find any merit in this contention also. It depends upon the facts and circumstances of each case where the learned trial court has to decide as to whether the

local Commissioner is required to be appointed or not.

4. In the present case, the point in issue was whether the premises occupied by the tenant are in a dilapidated condition or not. For this, the learned trial court rightly appointed the Local Commissioner who is an engineer.

5. Accordingly, this petition is dismissed. It is, however, made clear that the petitioner-tenant shall be at liberty to examine his expert witness at the time of examining his evidence.