

In the High Court of Punjab and Haryana at Chandigarh

**Civil Revision No. 1742 of 2015
Date of Decision: 11.3.2015.**

Rambir and another

.....Petitioners

Versus

Gram Panchayat and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. M.S.Khillan, Advocate
for the petitioners.

SABINA, J.

Petitioners have filed this petition under Article 227 of Constitution of India challenging the order dated 25.2.2015 whereby application moved by the petitioners under Order 26 Rule 9 of the Code of Civil Procedure, 1908 ('CPC' for short), for appointment of Local Commissioner, was dismissed.

Learned counsel for the petitioners has submitted that by moving the application for appointment of Local Commissioner, petitioners only want that Local Commissioner should visit the spot and make a report qua actual and factual position of the suit property. In fact, the Sarpanch had illegally and forcibly destroyed the property of the petitioner lying in the *bara*.

Order 26 Rule 9 CPC reads as under:-

Commission to make local investigations.- *In any suit in which the Court deems a local investigation to be requisite or proper for the purpose of elucidating any matter in dispute, or of ascertaining the market-value of*

any property, or the amount of any meson profits or damages or annual net profits, the Court may issue a commission to such person as it thinks fit directing him to make such investigation and to report thereon to the Court”

Thus, as per the above provision, the Court is empowered to issue commission to local investigation which may be necessary for the purposes of decision of the case. The object of the local investigation is not to collect evidence, which can be taken in the Court, but the purpose is to obtain such evidence which from its peculiar nature, can be only had on the spot with a view to elucidate any point, which is left doubtful on the evidence produced before the Court.

In the present case, petitioners have filed suit for permanent injunction. During the pendency of the suit, petitioners moved the application Annexure P-4 for appointment of Local Commissioner. The case of the petitioners is that the Sarpanch had forcibly entered the *bara* in question during the pendency of the suit and had destroyed the valuable property of the plaintiff lying at the spot and some trees had been uprooted. Learned Trial Court rightly dismissed the application moved by the petitioner as the Local Commissioner cannot be ordered to be appointed with a view to collect evidence on behalf of the petitioners. Petitioners are required to lead their evidence in order to prove their case.

No ground for interference by is made out.

Dismissed.

**(SABINA)
JUDGE**

March 11, 2015
Gurpreet