

IN THE HIGH COURT OF PUNJAB AND HARYANA, AT
CHANDIGARH

CR No. 2059 of 2015

Date of Decision: 30.04.2015

Gurdeep Singh and others

.....Petitioners

Vs.

Surinder Singh and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Atul Goyal, Advocate, for
Mr. Parvez Chugh, Advocate,
for the petitioners.

SABINA, J.

Petitioners have filed this petition challenging the order dated 24.02.2015, whereby application moved by the petitioners for appointment of Local Commissioner, was dismissed.

I have heard learned counsel for the petitioners and have gone through the record, available on the file carefully.

Order 26 Rule 9 of the Code of Civil Procedure, 1908 ('CPC' for short) 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 above provision, the Court has ample power to appoint local commissioner to make local investigation, which is necessary for the purpose of just decision of the case. However, the object of local investigation is not to collect the evidence on behalf of either party, but the purpose is to obtain such evidence, which from its peculiar nature, can only be had on the spot with a view to elucidate any point which is left doubtful on the evidence produced before the Court.

Respondents have filed suit for permanent injunction restraining the defendants for interfering in their peaceful possession qua the plot in dispute. During the pendency of the suit, petitioners-defendants moved an application (Annexure P-6) for appointment of Local Commissioner. The case of the petitioners was that the Local Commissioner should visit the spot and report with regard to the existing position of the suit land and with regard to level of construction, nature of construction and as to who had made the construction and who was tying his cattle in the portion measuring 8 marlas in the site plan.

Learned trial Court rightly dismissed the application moved by the petitioners for appointment of Local Commissioner as the petitioners cannot use the Court process to collect evidence on their behalf. In Order to establish their possession over the property in dispute, petitioners are required to lead their evidence. However, by moving the application, petitioners are virtually trying to use of Court process to collect evidence on their behalf.

No ground for interference is made out.

Dismissed.

April 30, 2015

**(SABINA)
JUDGE**