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

**CR No.2321 of 2015**

**Date of decision: May 05, 2015**

Raj Kumar

.....Petitioner

Versus

Maha Singh and others

.....Respondents

**CORAM: HON'BLE MRS. JUSTICE SABINA**

**Present:** Mr. S.S. Khurana, Advocate  
for the petitioner.

**SABINA, J**

Petitioner has filed this petition challenging the order dated 25.03.2015, whereby application moved by the petitioner for appointment of local commissioner, was dismissed.

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

Order 26 Rule 9 of 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.

Respondent No.1 has filed suit for permanent injunction. Now the case is listed before the trial Court for rebuttal evidence of the plaintiff, if any and arguments. Thus, both the parties have already led their oral as well as documentary evidence in support of their case. The case of the plaintiff is that he was using the disputed portion as a passage, whereas the case of the defendants is that the property in question was their ancestral property and was being used by them. By moving application for appointment of local commissioner to report qua the existing position at the spot, defendants have virtually tried to use the Court process to collect evidence on their behalf. However, the defendants cannot be permitted to use the Court process to collect evidence on their behalf. Since both the parties have already led their evidence in support of their respective pleas, the learned trial Court rightly held that the application moved by the defendants for appointment of local commissioner, is liable to be dismissed.

No ground for interference by this Court, is made out.

Dismissed.

**(SABINA)  
JUDGE**

**May 05, 2015**

*m.singh*