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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No.3007 of 2015
Date of decision: May 04, 2015

Sanjogta Rani and another

.....Petitioners

Versus

Manjit Pal Singh and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Ms. Poonam Rani, Advocate
for the petitioners.

SABINA, J

Petitioners have filed this petition challenging the order dated 17.01.2015., whereby application moved by the petitioners under Order 26 Rule 9 of Code of Civil Procedure, 1908 ('CPC" for short), 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 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 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

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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.

Petitioners have filed suit for possession. During the pendency of the suit, petitioners moved an application for appointment of local commissioner to report as to which party was in possession of the suit property. In order to prove their case, petitioners were required to lead their evidence in affirmative, but cannot use the Court process to collect evidence on their behalf to report as to which party is in possession of the suit property. Hence, the trial Court had rightly dismissed the application moved by the petitioners for appointment of local commissioner.

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

Dismissed.

(SABINA)
JUDGE

May 04, 2015
m.singh

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