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

Civil Revision No.3151 of 2013

Date of decision: 07.12.2015

Akal Educational Society

... Petitioner

versus

Preet Gupta and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Rajinder Goyal, Advocate,
for the petitioner.

Mr. M.K. Bhatnagar, Advocate,
for Mr. Sanjeev Kumar Bawa, Advocate,
for the respondents.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ? No.
3. Whether the judgment should be reported in the digest ? No.

K.Kannan, J. (Oral)

1. The counsel appearing on behalf of the respondents seeks for time. I decline the same.

2. The revision petition is against the order declining to appoint an Advocate Commissioner in a case where the plaintiff complains that the defendant has caused an encroachment and has placed reliance on the demarcation report secured from village official. The objection taken by the defendant is that the demarcation was done in their absence and the report will not bind them. The

court rejected the application for appointment of a Commissioner principally on the ground that it was belated.

3. In a suit for recovery of possession complaining of encroachment, the identification of the property and the encroachment as alleged are crucial and the assistance of a Local Commissioner to inspect, measure and give a report will only assist the court and there is no virtue about the dismissal on the ground that the plaintiff has not taken steps immediately. If there was a delay, the court could have appropriately punished the petitioner for the same.

4. The order already passed is set aside and I direct the plaintiff to pay costs of ₹5,000/- to the defendant for approaching the court belatedly with an application for demarcation. The costs shall be paid within a period of 2 weeks from the date of receipt of copy of this order.

5. The impugned order is set aside and the revision petition is allowed on the above terms. The trial court may appoint a suitable Local Commissioner to secure the report and proceed with trial in accordance with law.

(K.KANNAN)
JUDGE

07.12.2015
sanjeev