

CR-3317-2015 (O&M)

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

CR-3317-2015 (O&M).

Decided on: May 15, 2015.

Karma and others

..... Petitioner(s)

Versus

Inder Singh and others

..... Respondent(s)

*** * ***

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

**PRESENT Mr.Vinod Bhardwaj, Advocate,
for the petitioners.**

M.M.S. BEDI, J (ORAL).

This is defendants' revision petition against the dismissal of their application for appointment of Local Commissioner in order to determine the age of the construction of the house of the defendants over the land in dispute. The plaintiffs-respondents filed a suit for possession regarding the property in dispute. The defendants- petitioners have already taken up the plea that the construction had been raised by their father on the property in dispute in the year 1966.

Prima facie, the factum of age of construction seems to be of not much relevance for the adjudication of the controversy. Besides this, a party to a litigation cannot seek assistance of the Court to enable a party to create evidence for him.

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Counsel for the petitioners relies on judgment in ***Sham Lal Vs. Raj Kumar, 2013 (1) Law Herald 367***, to contend that the additional evidence can be allowed by a Court at any stage.

I have gone through the judgment which relates to the scope of appellate Court to order additional evidence in the exercise of powers under Order XLI Rule 27 CPC. There is no dispute regarding the preposition of law but the relevancy, admissibility and propriety to permit additional evidence is always a relevant fact which seems to have been appreciated by the trial Court. The judgment cited is not applicable to the facts of the present case.

No ground is made out for interference in the impugned order.

The petition is dismissed without prejudice to the rights of the petitioners to establish the facts involved in issue by producing evidence independently at any stage.

May 15, 2015.
rka

(M.M.S. BEDI)
JUDGE