

In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No. 3443 of 2015
Date of Decision: 18.5.2015.

Nanak Chand

.....Petitioner

Versus

Satpal

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. S.P.Chahar, Advocate
for the petitioner.

SABINA, J.

Petitioner has filed this petition under Article 227 of the Constitution of India challenging the order dated 28.8.2014 whereby application moved by the petitioner for appointment of Local Commissioner, was dismissed.

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

Order 26 Rule 9 of the Code of Civil Procedure, 1908 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 the above provision, the Court is empowered to issue commission to local investigation which may be necessary for the purposes of decision of the case. The object of the local investigation is not to collect evidence, which can be taken in the Court, but the purpose is to obtain such evidence which from its peculiar nature, can be only had on the spot with a view to elucidate any point, which is left doubtful on the evidence produced before the Court.

Petitioner has filed suit for mandatory injunction. When the case was listed for rebuttal evidence of the petitioner, an application was moved by the petitioner for appointment of Local Commissioner to report as to whether the material qua the disputed wall was similar to the wall of the plaintiff's house or defendant's house. Further, the petitioner prayed that the Local Commissioner should report qua the type of bricks used qua the disputed wall and remaining wall and the approximate age of the disputed wall and the house of the parties. The learned Trial Court rightly dismissed the application moved by the petitioner for appointment of Local Commissioner as the petitioner cannot be allowed to use the Court process to collect evidence on his behalf. Parties have already led evidence in support of their respective pleas and now the case is listed before the Trial Court for rebuttal evidence of the petitioner, if any, and arguments.

No ground for interference by this Court is made out.

Dismissed.

**(SABINA)
JUDGE**

May 18, 2015
Gurpreet