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

CR No.4007 of 2015

Date of decision: July 01, 2015

S. Devinder Singh and another

.....Petitioners

Versus

Amritpal Kaur and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Varun Jain, Advocate
for the petitioners.

SABINA, J

Petitioners have filed this petition challenging the order dated 09.12.2014, whereby application moved by the petitioners for appointment of local commissioner to record the statements of witnesses, was dismissed.

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

Respondent No.1 has filed suit for separate possession by way of partition. During the pendency of the suit, petitioners moved an application for appointment of local commissioner for recording the statement of Dinesh Kumar Jain, Advocate practicing at Imphal (Manipur) as well as statements of Baljinder Singh and Jaswant Kaur. The case of the petitioners was that Dinesh Kumar Jain, Advocate was a busy lawyer and was unable to appear as a witness at Patiala. Baljinder Singh was running business at Imphal and Jaswant Kaur was aged about 65 years and was residing at Imphal. The

learned trial Court while dismissing the application held that Jaswant Kaur had tendered her affidavit, which was duly attested at Patiala. Therefore, it was evident that Jaswant Kaur was capable of visiting Patiala. Further, it had been noticed by the trial Court that so far as witness Baljinder Singh was concerned, he had been served at his address at Patiala. There was nothing on record to support the plea of the petitioner that Baljinder Singh witness was unable to appear in the Court at Patiala. So far as Dinesh Kumar Jain, Advocate was concerned, the learned trial Court rightly held that in case, a local commissioner was appointed to record his statement at Imphal, counsel for the plaintiff would also have to visit Imphal and another person would also have to visit Imphal for recording the statement of witness. In the facts and circumstances of the present case, the reasons given by the trial Court while dismissing the application moved by the petitioners for appointment of local commissioner for recording the statements of witnesses at Imphal was rightly rejected by the trial Court.

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

Dismissed.

**(SABINA)
JUDGE**

July 01, 2015
mahavir