

In the High Court of Punjab and Haryana at Chandigarh

**Civil Revision No. 4634 of 2015 (O&M)
Date of Decision: 24.07.2015.**

Ramphal

.....Petitioner

Versus

Virender and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Rakesh Nehra, Advocate
for the petitioner.

SABINA, J.

Petitioner has filed this petition under Article 227 of Constitution of India challenging the order dated 15.5.2015 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 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 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 and respondents No. 4 to 10 have filed suit for permanent injunction and mandatory injunction. Both the parties have led their evidence in respect of their respective pleas. Case of the petitioner was that the suit property forms part of *killa* No. 13/4 whereas the case of respondents was that it forms part of *killa* No. 13/5. Parties were required to lead their evidence in support of their pleadings. When the case was listed at the stage of rebuttal evidence, petitioner moved an application for appointment of Local Commissioner. The learned Trial Court rightly dismissed the application moved by the petitioner for appointment of Local Commissioner as the Court process cannot be used for collecting evidence on behalf of the party concerned.

No ground for interference by this Court is made out.

Dismissed.

**(SABINA)
JUDGE**

July 24, 2015
Gurpreet