

227

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

CR No.61 of 2014

Date of decision: March 17, 2015

Akal Educational Society

.....Petitioner

Versus

Mohinder Singh and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

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

SABINA, J

Petitioner has filed this petition challenging the order dated 20.11.2013, whereby application moved by the petitioner for appointment of Local Commissioner, was dismissed.

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

Order XXVI Rule 9 of Code of Civil Procedure, 1908 ('CPC' for short) 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 above provision, the Court has ample power to appoint local commissioner to make local investigation, which is necessary for the purpose of just decision of the case. However, the object of local investigation is not to collect the evidence on behalf of either party, but the purpose is to obtain such evidence, which from its peculiar nature, can only be had on the spot with a view to elucidate any point which is left doubtful on the evidence produced before the Court.

In the present case, respondent No.1 has filed suit for permanent injunction. During the pendency of the suit, petitioner moved an application for appointment of local commissioner to inspect the property and report, if the same was cultivable land or had become a residential area. The said application was dismissed by the trial Court vide impugned order dated 20.11.2013 that the same had been moved at a belated stage. Moreover, the parties are to lead their own evidence in support of their case and the Court is not expected to collect the evidence on behalf of either party.

The learned trial Court had rightly dismissed the application for appointment of local commissioner as by way of the said application, petitioner wanted to use the Court process for collecting evidence on its behalf. Moreover, it has been held by the Division Bench of this Court in ***Pritam Singh and another versus Sunder Lal and others***, 1991(1)

R.R.R. 356 that the order refusing to appoint a commissioner is not revisable under Section 115 CPC. Petitioner has filed the present petition under Article 227 of the Constitution of India, but has failed to show as to what grave injustice has been caused to him. The trial Court had rightly dismissed the application for appointment of a local commissioner.

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

Dismissed.

**(SABINA)
JUDGE**

March 17, 2015

m.singh