

107

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

CR No.714 of 2015

Date of decision: April 23, 2015

Jagir Singh

.....Petitioner

Versus

Jasbir Kaur

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Sandeep Arora, Advocate
for the petitioner.

SABINA, J

Petitioner has filed this petition challenging the order dated 26.04.2014, whereby application moved by the petitioner under Order 26 Rule 9 of Code of Civil Procedure, 1908 ('CPC' for short) for appointment of local commissioner for ascertaining physical possession of the disputed property at the spot, was dismissed.

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

Order 26 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.

Respondent has filed suit against petitioner for permanent injunction. Petitioner moved an application for appointment of local commissioner to report qua physical possession of the suit property. Learned trial Court rightly dismissed the application as the Court process cannot be used by a party for collecting evidence on his behalf. In order to establish his possession over the property in question, petitioner is required to lead his own evidence and cannot use the Court process to collect evidence on his behalf.

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

Dismissed.

**(SABINA)
JUDGE**

April 23, 2015
m.singh