

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Civil Revision No. 8216 of 2014

DATE OF DECISION : September 07, 2015

Ajmer Singh & ors.

..... PETITIONER(S)

VERSUS

Sukhdev Singh & ors.

.... RESPONDENT(S)

CORAM : HON'BLE MR. JUSTICE ARUN PALLI

**Present: Mr. Harsh Aggarwal, Advocate, for the petitioners.
Mr. Rajbir Singh, Advocate, for the respondents.**

ARUN PALLI, J. (Oral)

Vide order being assailed, dated 21.10.2014, rendered by Civil Judge (Junior Division), Sangrur, application moved by the petitioners/defendants for appointment of a Local Commission has since been declined.

On a consideration of the matter in issue, the conclusion arrived at by the learned trial Court reads, as thus:-

"I have heard the counsel for both the parties and perused the file carefully. In the counter claim filed by the plaintiffs, the plaintiff have claimed possession of land measuring 1 bigha 5 biswa land out of Khasra no.21//2/1 (1-5) which has been illegally encroached upon by the plaintiffs.

In reply to the counter claim the plaintiffs in Para no.3 have admitted that they are in possession of Khasra no.21//2/1 (1-5) as co-sharer. The plaintiffs have admitted the possession over Khasra no.21//2/1

(1-5). The application has to be read as a whole. The defendants have failed to mention as to why they want demarcation of Khasra no.47//21/2/1/1-5-6, 48//25/1/2/1-1-0, 25/2/1/1-1-0, 49//5/1/3-0-0, 51//1/4-0-0. There is no reason for appointing Local Commission in this case as far as Khasra no.21//2/1 (1-5) is concerned because it has been admitted by the plaintiff that he is in possession of the same in his reply to counter claim in Para no.3.

In view of the above discussion application of the defendant for appointment of Local Commission is dismissed.”

The provisions of Order XXVI Rule 9, Code of Civil Procedure, postulate that, in case, the Court deems a local investigation to be requisite or proper for the purpose of elucidating any matter in dispute, the Court may issue a commission to make such investigation and to report thereon. Concededly, the petitioners claim a decree for possession on the basis of title of a land comprised in Khasra No.21//2/1 (1-5), and the respondents/plaintiffs admit that they indeed are in possession of the said Khasra number. That being so, learned trial Court rightly concluded that there was hardly any necessity to carry out local investigation by appointing a commission.

In the wake of the position, as set out above, no interference is warranted in exercise of revisional jurisdiction under Article 227 of the Constitution of India. Petition being misconceived and devoid of merit is, accordingly, dismissed.

SEPTEMBER 07, 2015

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(ARUN PALLI)
JUDGE