

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.1384 of 2016 (O&M)

Date of decision:07.09.2016

Joginder Singh

... Petitioner

Vs.

Subhash Chand and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Ravi Chadha, Advocate, for the petitioner.

AMIT RAWAL J. (Oral)

Learned counsel for the petitioner submits that he may be permitted to withdraw the application for appointment of Local Commissioner which was moved before the trial Court in a suit for permanent injunction and during the pendency of the suit, the respondents are stated to have forcibly and illegally encroached upon the land. In this aspect of the matter, the application under Order 26 Rule 9 of Code of Civil Procedure, has been moved which was dismissed on the premise that Local Commissioner cannot be appointed to create evidence for the parties and Court cannot delegate its powers to Local Commissioner.

In view of the aforesaid fact, the present revision petition and as well as the application moved under Order 26 Rule 9 CPC are ordered to be dismissed as withdrawn with a liberty to move an appropriate application

at an appropriate stage until and unless the plaintiff show some positive evidence on encroachment but not at the drop of the hat.

September 07, 2016

savita

(AMIT RAWAL)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No