

In the High Court of Punjab and Haryana at Chandigarh

PARAMJIT KAUR SAINI
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Civil Revision No. 3 of 2016
Date of Decision: 7.1.2016

Mukesh

---Petitioner

versus

Birmati and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Deepak Girotra, Advocate
for the petitioner

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

Rekha Mittal, J.

The present petition lays challenge to order dated 19.11.2015 (Annexure P-5) whereby application filed by the petitioner for appointment of Local Commission has been dismissed by the Civil Judge (Junior Division), Rohtak.

The petitioner is one of the defendants in a suit for permanent and mandatory injunction filed by respondent Birmati. The dispute between the parties is in respect of a street. The respondent-plaintiff has already concluded her evidence and the case is pending for evidence of the defendants and some of the witnesses of the defendants have already been examined.

The petitioner filed an application for appointment of Local Commission by making reference to certain facts put to DW2 during his

cross examination by counsel for the plaintiff/respondent. He prayed for appointment of Local Commission in order to verify the correct position of the site in dispute and as to whether any door/gate of the plaintiff or other adjoining houses open towards the site in dispute and as to whether there exists any building on the site in dispute and the site in dispute is being used as a common street.

The application has been dismissed by the learned trial court with the observations that both the parties are well aware about the case and they had led their evidence in this regard and the Local Commission cannot be appointed to create evidence in favour of the parties.

Counsel for the petitioner is not in a position to challenge the findings of the learned trial court that a Local Commission cannot be appointed by a Court to collect evidence for either of the parties in the lis. A plain reading of the averments set up in the application would make it evident that the petitioner sought appointment of a Local Commission in order to collect evidence to substantiate his plea and to counter the case of the plaintiff. I do not find any error much less illegality in the impugned order as would call for intervention.

For the reasons aforesaid, finding no merit, the petition is dismissed in limine. No order as to costs.

(Rekha Mittal)
Judge

7.1.2016
PARAMJIT