

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

C.R. No.4261 of 2016

Date of Decision.15.09.2016

Tilak Raj

.....Petitioner

Vs

Hari Ram

.....Respondent

Present: Mr. Munish Puri, Advocate
for the petitioner.

None for the respondent.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J. (ORAL)

The petitioner is aggrieved of the dismissal of the application filed under Order 26 Rule 9 CPC for appointment of local commissioner for demarcation of the property in dispute.

Service is complete but there is no representation for the respondent. There had been no representation even at the previous hearing. I hasten to dispose of the case on merits.

Mr. Munish Puri, learned counsel for the petitioner submits that the respondent-plaintiff has also not objected to the appointment of the local commissioner which is evident from paragraph 3 of the reply, which reads thus:-

“3. Para No.3 of the application is replied as that the plaintiff has no objection if the local commission from revenue side is appointed in order to bring the true position before the Ld. Court.”

He submits that the suit is for possession of land measuring 5 marlas as indicated in the head note of the plaint and to ascertain the actual possession, demarcation of the property is essential and necessary. The

Court below ought not to have dismissed the application rather it would help for proper adjudication of the lis.

For the reasons aforementioned, I am of the view that demarcation of the property is essential for proper adjudication of the lis. The impugned order dated 16.05.2016 is set aside. The prayer seeking appointment of Kanungo as local commissioner for demarcation of the suit property is ordered. The revision petition stands allowed.

(AMIT RAWAL)
JUDGE

September 15, 2016
Pankaj*

Whether reasoned/speaking

Yes

Whether reportable

No