

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

CR No.4805 of 2016(O&M)

Date of decision:29.7.2016

Vishal Bhandari

....Petitioner

VERSUS

Raghubir Singh and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Ms. Himani Kapila, Advocate for the petitioner.

REKHA MITTAL, J. (Oral)

The present petition has been directed against order dated 10.05.2016 (Annexure P-2) passed by the Civil Judge (Senior Division), Gurdaspur whereby application dated 12.01.2016 (Annexure P-1) filed by the petitioner/defendant under Order 26 Rule 9 of the Code of Civil Procedure, 1908 (for brevity 'CPC') for appointment of local commissioner has been dismissed.

Counsel for the petitioner would submit that a local commissioner is required to be appointed to demarcate the land which would facilitate complete and effective adjudication of the matter in controversy. It is further submitted that no prejudice would be caused to the respondent/plaintiff if such an exercise is undertaken by the Court.

I have heard counsel for the petitioner, perused the paper-book particularly the order impugned and find that the petition is devoid of merit and deserve to be dismissed.

The respondent has filed a suit for permanent injunction restraining the defendant from interfering into his peaceful cultivating

possession over land measuring 23 kanals 3 marlas situated in the revenue estate of village Sehzada Nangal, Tehsil and District Gurdaspur as per jamabandi for the year 2007-08, detailed in head-note of the plaint. The parties to the suit have already adduced their respective evidence. A local commissioner cannot be appointed to report as to which of the parties is in possession of a particular piece of land. The present case is not a case of encroachment which is sought to be removed by the plaintiff(s). The present application, by no stretch of imagination, falls within the purview of Order 26 Rule 9 CPC, warranting intervention in the impugned order.

For the foregoing reasons, finding no merit, the petition fails and is accordingly dismissed in *limine*.

JULY 29, 2016

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned : yes/no

Whether reportable : yes/no