

**In the High Court of Punjab and Haryana at Chandigarh**

**Civil Revision No.4818 of 2016**

**Date of Decision: July 29, 2016**

Sarwan Singh

---Petitioner

versus

Gurjit Singh and Others

---Respondents

**Coram: Hon'ble Mrs. Justice Rekha Mittal**

Present: Mr. Surinder Thakur , Advocate  
for the petitioner.

**Rekha Mittal, J. (Oral)**

The present petition has been directed against order dated 01.07.2016 passed by the Additional Civil Judge (Senior Division), Dasuya whereby application filed by the petitioner/plaintiff under Order 26 Rule 9 read with Section 151 of the Code of Civil Procedure, 1908 (in short 'CPC') for appointment of local Commissioner has been dismissed.

Counsel for the petitioner has submitted that the petitioner along with his brother Resham Singh has filed a suit for damages of Rs.50,000/- for loss caused to the underground plastic pipes by the defendants from the area marked in letters A and B in the site plan, running through the Shamshan Ghat of Ad-dharmi community situated at village Bhooshan, Tehsil Dasuya, District Hoshiarpur. It is argued that appointment of a local Commission with a direction to report about the damage would facilitate just adjudication of the matter in controversy when otherwise no prejudice would be caused to the respondents.

I have heard counsel for the petitioner, perused the paper book particularly the order impugned.

As per settled position in law, a local commissioner is not to be appointed by the Court to collect evidence. The parties have already adduced their evidence and the case is fixed for rebuttal and arguments. It appears, as has been rightly held by the trial Court, that the present application was filed by the petitioner to collect evidence to fill in gaps in his case by using process of the Court, not permissible in law. That being so, I do not find any error much less illegality in the impugned order warranting intervention.

Dismissed.

**(Rekha Mittal)**  
**Judge**

**July 29, 2016**

*'Rishabh'*

Whether Speaking/Reasoned : Yes/No

Whether Reportable : Yes/No