

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No. 4823 of 2016(O&M)

Date of decision: 29.07.2016

MOHAMMAD SUHAIL

...Petitioner

V/s.

BISMBAR AND ANOTHER

...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL.

Present: Mr. Munfaid Khan, Advocate for the petitioner.

REKHA MITTAL, J. (Oral).

The present petition has been filed against order dated 20.05.2016 (Annexure P-7) passed by the Civil Judge (Junior Division), Mewat whereby application for appointment of Local Commissioner in the suit captioned 'Mohammad Suhail V/s. Bishamber and others' filed by the petitioner/plaintiff, has been dismissed.

Counsel for the petitioner would submit that fate of the claim of the petitioner would hinge upon the report of a Local Commissioner to be appointed by the Court and, therefore, the learned trial Court has committed a gross error rather illegality in dismissing the application vide order impugned.

I have heard counsel for the petitioner, perused the paper-book particularly the application for appointment of Local Commissioner (Annexure P-6) and the order impugned (Annexure P-7) and find that the petition is devoid of merit and deserves to be dismissed.

The petitioner has filed a suit for permanent injunction on the premise that he is in actual physical possession of the property marked by

letters ABCD as shown in red colour in the site plan attached with the plaint situated within the Abadi Deh of Nuh, Tehsil Nuh, District Mewat, detailed in head note of the suit. It has further been averred that the defendants in the garb of their agricultural property intend to take forcible possession of the suit property from the plaintiff and want to encroach upon the same. The application for appointment of Local Commissioner was filed on the plea that a Revenue Officer may be appointed as a Local Commissioner to bring the actual position of the suit property by demarcation at the spot which is required for just decision of the case.

Be that as it may, a Local Commissioner is not to be appointed to report as to which of the parties is in possession of a particular piece of land or collect evidence. The present application, by no stretch of imagination, falls within the purview of Order 26 Rule 9 CPC, warranting intervention in the impugned order.

In view of the above, I do not find any error much less illegality in the impugned order. The petition is accordingly dismissed.

(REKHA MITTAL)
JUDGE

July 29, 2016
Divyanshi

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No