

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

**CR No.5573 of 2016
Date of Decision: 30.08.2016**

Vijay Pal**Petitioner**

Versus

Mahabir**Respondent**

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Sudhir Hooda, Advocate
for the petitioner.

RAJ MOHAN SINGH, J.

[1]. In this revision petition, the petitioner has challenged the order dated 11.05.2016 passed by Civil Judge (Junior Division), Rohtak vide which application for adducing additional evidence by the plaintiff was declined.

[2]. Plaintiff filed a suit for declaration with consequential relief of permanent injunction on the premise that he is owner in possession of constructed area as shown by revenue configurations i.e. Killa No.52/2/23 comprised in khewat Nos.96 and 97. Plaintiff got appointed a Local Commissioner by the order of Tehsildar wherein house was shown in the report of the Local Commissioner and the plaintiff wanted to prove the real controversy of demarcation. The prayer was made to allow the

application for examination of the Local Commissioner who has demarcated the property and submitted his report.

[3]. During course of arguments, it transpired that during the proceedings in the main suit, an application was moved for appointment of Local Commissioner which was dismissed by the trial Court on 21.04.2015. Thereafter, the plaintiff innovated the idea to have redressal on that front by way of seeking examination of Local Commissioner in order to prove report of demarcation through the offices of revenue staff. This is an effort to side track the order dated 21.04.2015 which has already been attained finality. Even otherwise, Local Commissioner cannot be allowed to collect evidence in favour of either of the party. Virtually by way of present application for adducing additional evidence, the plaintiff-petitioner intended to lead evidence of Local Commissioner which specifically declined by the trial Court on 21.04.2015.

[4]. It is true that the additional evidence can be adduced at any stage of litigation, but the same could not be used to circumvent any provision of law or the order already passed on record. Plaintiff-petitioner would be at liberty to lead his substantive evidence other than the evidence based on such report of Local Commissioner. Petitioner intended to do an act indirectly which he could not do directly. The process of the

Court cannot be utilized to collect evidence in favour of either of the party to the *lis*.

[5]. In view of aforesaid, this Court is not inclined to interfere in the impugned order dated 11.05.2016 passed by Civil Judge (Junior Division), Rohtak. Accordingly, this revision petition is dismissed.

30.08.2016

Prince

**(RAJ MOHAN SINGH)
JUDGE**

Whether Reasoned/Speaking

Yes/No

Whether Reportable

Yes/No