

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

CR No.5875 of 2016 (O&M)

Date of decision : 08.09.2016

Charno Devi and others

...Petitioners

Versus

Gian Chand

..Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

1. Whether reporters of local newspapers may be allowed to see judgment ?
2. To be referred to reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. Vishal Sodhi, Advocate for the petitioners.

AMIT RAWAL, J. (Oral)

Petitioners-plaintiffs are aggrieved of the impugned order, whereby application seeking appointment of Local Commissioner in suit for mandatory injunction seeking restraint order against the respondent for removal of the alleged encroachment, has been dismissed.

Mr. Vishal Sodhi, learned counsel appearing on behalf of petitioners submits that suit is slated for petitioners-plaintiff evidence and there is no other way to prove the averments made in the plaint except through the assistance of the Local Commissioner.

I have heard learned counsel for the petitioners-plaintiffs and

appraised the paper book and of the view that plaintiffs have to stand on their own legs and discharge onus as per the provision of Section 101 of the Indian Evidence Act but not in the manner and mode entitling them to collect the evidence through the assistance of Local Commissioner.

In order to establish encroachment, direct, cogent and positive evidence is required to be lead at this stage. Realising this, the Court is not inclined to interfere, learned counsel for the petitioners prays that he should be allowed to withdraw the application with liberty to move application in case any necessity arises, in essence, that he will lead evidence as per the observations made by this Court.

I am in agreement with the contention of learned counsel for the petitioners. Accordingly, application for appointment of Local Commissioner is ordered to be withdrawn and he can file the application only when despite, sincere and due diligence not able to establish the encroachment through direct and cogent evidence in accordance with law.

Aforesaid view of mine shall not be construed an expression of opinion on merits of the pending suit.

With the aforementioned observations, present revision petition is disposed of.

08.09.2016

pawan

**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No