

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

CR No.6020 of 2016(O&M)
Date of decision: 15.09.2016

Rajesh Lamba

... Petitioner

Versus

Nirmala Devi and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Adish Gupta, Advocate for the petitioner.

ARUN PALLI J. (Oral)

Vide order being assailed, dated 25.05.2016, rendered by the Civil Judge (Jr. Divn.), Faridabad, objections preferred by the petitioner-defendant to the report of Local Commissioner have since been dismissed.

In a suit filed by respondent No.1-plaintiff, she has prayed for injunction simplicitor, claiming herself to be in possession of the land measuring 10 kanal 10 marla, comprised in khatauni No.543/1256 Rect. No.194, situated in Mangar, Tehsil and District Faridabad. Whereas, petitioner-defendant claims himself to be in exclusive possession of the land measuring 26 kanal 10 marla on the basis of title. The trial court appointed Naib Tehsildar to inspect the disputed site, who has since submitted his report. In the objections preferred by the petitioner-defendant, he has questioned the validity of the report submitted by the Local Commissioner on multiple grounds.

Ex facie, the trial court dismissed the objections, for, at this stage, when the parties to the lis were yet to lead evidence, the objection as regards the demarcation could not be gone into. However, petitioner-defendant was granted liberty to cross-examine the Local Commissioner, at an appropriate stage in the suit, vis-à-vis the validity of his report. Even otherwise, once the right of the petitioner-defendant to cross-examine the Local Commissioner has been reserved by the trial court, his interest is completely protected under Order 26 Rule 10(2) of the Code of Civil Procedure. No prejudice is caused to the petitioner. Learned counsel for the petitioner could not point out as to the how the conclusion arrived at by the learned trial court is either erroneous or suffers from any material illegality.

That being so, no interference is warranted in exercise of extraordinary jurisdiction under Article 226 of the Constitution of India. The petition being devoid of merit is accordingly dismissed.

September 15, 2016
Rajan

(Arun Palli)
Judge