

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

**Civil Revision No.7744 of 2015(O&M)**

**Date of Decision: 17.8.2016**

**Krishan Kumar**

**--- Petitioner**

**versus**

**Prithi Raj and others**

**---Respondents**

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

**Present: Mr.L.S.Sandhu, Advocate for the petitioner**

**\*\*\***

**Rekha Mittal, J.**

The present petition has been directed against order dated 17.10.2015 (Annexure P-5) passed by the Civil Judge (Junior Division), Dabwali whereby application filed by the petitioner under Order 26 Rule 9 of the Code of Civil Procedure for appointment of local commission to bring on record actual and factual position of the suit land has been dismissed.

Counsel for the petitioner has submitted that in case the local commission is appointed for the purpose sought to be attained, it would facilitate just decision of the case when otherwise no prejudice would be caused to the contesting party.

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

The learned trial court has noticed that the petitioner/plaintiff has filed a suit for permanent injunction restraining the defendants from causing interference into his peaceful and lawful possession qua the suit land. It appears that the applicant-plaintiff wants to lead evidence in his favour with the aid of the court, not permissible in law. As per the settled position in law, a local commission cannot be deputed to make a report with regard to the factum of possession over the suit property, to be proved by the party/suitor who has approached the Court for grant of discretionary and equitable relief of injunction. The present application, by no stretch of imagination, falls within the purview of Rule 9 of Order 26 CPC.

In view of the above, I do not find any error much less illegality in the impugned order as would call for intervention.

Dismissed in limine.

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

**17.8.2016**

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No