

C.R.No. 6388 of 2017

Date of Decision: 30.11.2017

Ram Singh alias Rai Singh

---Petitioner

versus

Lal Chand

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Munish Gupta, Advocate
for the petitioner**

Rekha Mittal, J.

Challenge in the present petition has been directed against order dated 21.7.2017 (Annexure P-15) passed by the Civil Judge (Junior Division), Narnaul whereby application filed by the petitioner for appointment of another local commission to conduct demarcation at the spot, has been dismissed.

The precise grievance of the petitioner is that earlier the Court appointed a local commission for conducting demarcation at the spot and report in this regard was submitted by the commission. The petitioner filed objections against report of the local commission, pending consideration of the trial court. Simultaneously, an application was filed by the petitioner under Order 26 Rule 9 of the Code of Civil Procedure (in short "CPC") for appointment of fresh local commission and the same has been dismissed by the Court. It is argued that as the petitioner has filed objections against report of the local commission and another application for appointment of fresh local commission, application for appointment of another local commission was required to be decided by the Court at the time of deciding the objections against the earlier report of the local commission.

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

Perusal of the order (Annexure P-15) would reveal that the suit is at the stage of filing of replication and framing of issue(s). The petitioner filed an application for appointment of local commission at the very inception of the suit but somehow the trial court was persuaded to accede to the request of the petitioner and accordingly a local commission was appointed to conduct demarcation at the spot. Counsel would inform that said order was passed on the basis of consent recorded by counsel for the parties. No doubt, the petitioner filed objections against report of the local commission but simultaneously sought appointment of another local commission even before the pleadings could be completed, issues framed much less adducing any evidence. The objections preferred by the petitioner could be appreciated only in the light of evidence to be adduced by the parties, therefore, there was no occasion for the Court to accept prayer of the petitioner for appointment of another local commission. The petitioner is guilty of abusing and misusing the process of law and trying to prolong the case for the reasons best known.

In the given circumstances, present petition stands disposed of with the observation that if at any later stage of the suit, the court finds appointment of another local commission necessary under law, order impugned shall not stand in the way for undertaking that exercise.

(Rekha Mittal)
Judge

30.11.2017

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