

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

**CR No.1304 of 2018 (O&M)
Date of decision : February 23, 2018**

Parbhati (now deceased) and others Petitioners

Versus

Vijay Kumar Goswami and others Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Sanjay Vashisth, Advocate for the petitioners.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (ORAL)

Impugned in the present revision petition is the order dated 02.02.2018 passed by learned Civil Judge (Jr. Divn.), Narnaul, vide which the application filed the petitioners under Order XXVI, Rule 9 CPC, 1908 was dismissed

Heard.

It comes out that in a civil suit was filed way back in the year 2013 for simple injunction. Both the parties led evidence. When the case was fixed at the stage of rebuttal evidence and arguments, an application Order XXVI, Rule 9 CPC, 1908 was filed for the appointment of revenue expert as Local Commissioner to demarcate the suit property. The trial court has taken the view that the controversy qua demarcation of the respective land was well within the knowledge of the plaintiffs while leading their evidence. The plaintiffs should have been vigilant to prove their case and disprove the defendants' case, by leading evidence. The plaintiffs have already concluded their evidence. In this way, it comes out that the plaintiffs

want to fill up the lacunae left in their evidence by way of leading the evidence of Local Commissioner, which is, in fact, an additional evidence. It is a simple suit for permanent injunction, in which the defendant is sought to be restrained from interfering in the land of the plaintiffs.

In the application, it has been mentioned that there is a dispute between the parties regarding location and demarcation of khasra numbers and which khasra number falls at what place. In the plaint, such dispute is not raised. Therefore, at the rebuttal stage, there is no ground to allow to fill up the lacunae left in the evidence led by the plaintiffs.

Learned counsel for the petitioners has relied upon the authority of the Apex Court delivered in case of “*Haryana Waqf Board vs Shanti Sarup and others*”, 2008(8) SCC 671.

A perusal of the said authority shows that it was a suit for declaration and injunction, where the demarcation was found necessary. It is not so in the present case.

As such, the present revision petition is dismissed.

(KULDIP SINGH)
JUDGE

February 23, 2018

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Whether speaking / reasoned Yes

Whether Reportable: No