

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

**CR No.2462 of 2018 (O&M)
Date of Decision: April 19, 2018**

Amrik Singh

...Petitioner

Versus

Jangir Kaur and another

...Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Param Preet Singh Brar, Advocate
for the petitioner.

FATEH DEEP SINGH, J.

The instant civil revision petition has arisen out of an order dated 23.3.2018 (Annexure P/7) of the Court of learned Additional Civil Judge, Senior Division, Faridkot, whereby, in a civil suit of permanent injunction etc. filed by the plaintiff/present revisionist against defendants now respondents the Court has allowed application under Order 26 Rule 9 CPC and appointed Halqa Kanungo as Local Commissioner to demarcate the disputed property.

Heard, learned counsel for the petitioner. Admittedly, it is the own stand of the plaintiff-petitioner that he is in peaceful possession over land measuring 74 kanals and 19 marlas detailed in the head note of the plaint in the area of village Kotkapura-V, Agwar Kahlon and had claimed consequential relief restraining the defendants from dispossessing the plaintiff from the said land. The stand of the defendants is that plaintiff

has encroached upon land of the defendants and, thereafter, filed the present suit to enable him to keep intact the illegal occupation of the land. The Court in such a situation was left with no option but to ascertain claim and counter-claim of the parties through demarcation of the property and, thus, to ascertain as to who is in illegal occupation of the property in question. Merely by appointing Local Commissioner would not mean that trial Court is trying to collect the evidence but it is only seeking legal assistance to comprehensively and judiciously adjudicate upon the dispute and has rightly observed that such a dispute between the parties can only be effectively resolved, if Local Commissioner is appointed and for that purpose has appointed Halqa Kanungo as so to visit the spot and demarcate the suit property in accordance with rules. What prejudice is to be caused to the petitioner by such an act when it is his own claim that respondents are trying to encroach his property. Apparently there is no merit in the case of the petitioner who is trying to obstruct the comprehensive adjudication by having resort to such a means when the report of the Local Commissioner is amenable to objections, if any, by any of the concerned parties and is to be co-related with other evidence that is to be brought at the trial. Thus, finding no merits the present revision petition stands dismissed in limine.

(FATEH DEEP SINGH)
JUDGE

April 19, 2018
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No