

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 116

CR-5523-2018

Date of decision : 24.08.2018

Indraj and another

..... Petitioners

VERSUS

Dana Ram and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. G. S. Saini, Advocate, for the petitioners.

DEEPAK SIBAL, J. (ORAL)

The present petition is directed against the order dated 24.07.2017, passed by the Additional Civil Judge (Senior Division), Ellenabad, through which the application filed by the petitioners for appointment of a Local Commissioner has been rejected.

The petitioners/plaintiffs filed a suit seeking therein permanent injunction to restrain the respondents/defendants from interfering in their peaceful possession of the suit property as detailed and described in their plaint. During the course of leading their evidence, they filed an application requiring the Trial Court to appoint a Local Commissioner to go to the suit property and give a report as to who is in actual physical possession. Such application was declined by the Trial Court, giving a cause to the petitioners to approach this Court through the present petition.

Learned counsel for the petitioners submits that the Trial Court erred in not appointing a Local Commissioner for submitting a report as to who is in actual physical possession of the suit property as such report would have helped the Trial Court to go to the root of the matter.

After considering the submissions made by learned counsel for the petitioners, no merit is found in the same.

The petitioners have filed a suit for permanent injunction. In order to secure a favourable order in their suit it is for them to stand on their own legs and prove their case through leading of documentary or oral evidence or both, in accordance with law and not to require the Court to collect evidence on their behalf. Appointment of a Local Commissioner can be ordered by the Court after considering the facts of each case. In the case in hand, the Trial Court felt it unnecessary to do so. No perversity in such order passed by the Trial Court is found.

Dismissed.

24.08.2018
shamsher

[DEEPAK SIBAL]
JUDGE

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