

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

Sr. No.123

CR-7071-2018

Date of decision: 22.10.2018

Ravinder Saini and another

....Petitioners

versus

Beer Singh (now deceased) through his LRs

....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. A.P. Bhandari, Advocate
for the petitioners.

* * *

DEEPAK SIBAL, J. (Oral)

The present petition is directed against the order dated 09.10.2018 passed by the Civil Judge (Junior Division), Faridabad (for short – 'the Trial Court') through which an application filed by the petitioners/plaintiffs for appointment of a Local Commissioner has been dismissed.

The facts, in brief, which are required to be noticed for adjudicating upon the present petition are that the petitioners filed a suit seeking therein permanent injunction to restrain the respondents/defendants from interfering in their peaceful possession over the property fully detailed and described in the plaint (for short – 'the suit property') and for causing damage to the same. It was further prayed that in case during the pendency of the suit the respondents/defendants interfere in the peaceful possession of the petitioners/plaintiffs, a decree of mandatory injunction be passed to direct the respondents/defendants to put the petitioner in the peaceful

possession of the suit property.

When the petitioners had led their entire evidence an application was moved by them for appointment of a Local Commissioner which was dismissed through the order impugned in the present proceedings.

Learned counsel for the petitioners has been heard.

The Trial Court has dismissed the petitioners' application for appointment of a Local Commissioner filed by them to verify the factum as to who is the possession of the suit property on the ground that through their application the petitioners were in fact seeking to use the Court to collect evidence for them which is not the purpose of Order 26 Rule 9 CPC as it is for them to stand on their legs to establish their possession over the suit property for which they have already led their evidence.

The above reasoning given by the Trial Court have been considered and no error is found in the same.

Dismissed.

(DEEPAK SIBAL)
JUDGE

October 22, 2018

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Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No