

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

**CR No.764 of 2017
Date of Decision:14.03.2018**

Rajinder Kumar

...Petitioner

Versus

Leela Devi and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.Vikas Mohan Gupta, Advocate for the petitioner.
Mr.P.S.Jammu, Advocate for he respondents No.1 to 4.

ANIL KSHETARPAL, J. (ORAL)

Petitioner is aggrieved to an order dated 16.1.2017 passed by the learned trial court, appointing an Advocate to visit the spot, after giving notice to both the parties and to report about existence or non-existence of the Dairy Farm and in whose name the electricity connection is running.

Learned counsel for the petitioner has vehemently argued that such direction has been issued by the court after the parties had closed their evidence and thus amounts to collecting evidence. He has further submitted that the Local Commissioner in an indirect manner, has been directed to report about the possession which is not permissible.

As per Order 26 Rule 9 of the Code of Civil Procedure, Commission can be appointed by the court to carry out local investigation required for the purpose of elucidating any matter in dispute. In the present case, the court has given specific direction to the Local Commissioner to report about the existence or non-existence of Dairy Farm and in whose name the electricity connection is running.

In the considered opinion of this Court, such direction does not

amount to direction to the local commissioner to report about possession of the property. Order 26 Rule 9 of the Code of Civil Procedure enables the court to appoint a local commissioner directing him to carry out such investigation and report. Such investigation would always be dependent on the facts and situations. In this case, the learned trial court has arrived at a finding that investigation is necessary.

In view thereof, there is no scope for interference in the impugned order. The civil revision petition is dismissed.

14.03.2018
mks

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No