

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

**CR No.8072 of 2016(O&M)
Date of Decision: 10.08.2018**

**MOHINDER KUMAR @ MOHINDER SINGH
.....PETITIONER**

VERSUS

TEK CHAND AND ANOTHER RESPONDENTS

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Ms. Nidhi Kalia, Advocate for
Mr. Rajesh Punj, Advocate
for the petitioner.

Mr. R.K. Gupta, Advocate
for the respondents.

RAJ MOHAN SINGH, J.(Oral)

[1]. In an application under Order 39 Rules 1 and 2 CPC filed by the plaintiff in a suit for permanent injunction, trial Court after considering all the three ingredients i.e. existence of *prima facie* case, balance of convenience and causing of irreparable loss in the event of not granting injunction, granted *ad interim* injunction vide order dated 16.03.2015.

[2]. Lower Appellate Court appointed J.E., Estate Office, HUDA as Local Commissioner and on the basis of report of Local Commissioner, reversed the order dated 16.03.2015 passed by the trial Court.

[3]. Perusal of the report of the Local Commissioner would show that he has endorsed allotment of land in favour of the defendants and also opined that the possession of the suit land was given to the defendants. It appears that the Local Commissioner has exceeded and acted beyond the scope of reference given to him. Local Commissioner is not supposed to collect evidence on behalf of any of the party. He was only appointed to see the factual position existing at the spot.

[4]. In my considered opinion, reversal of the order of the trial Court is not in consonance with any lawful criteria. Since both the parties are asserting their possession qua the suit property, therefore, it would be just and appropriate to direct both the parties to maintain *status quo* during pendency of the suit.

[5]. With the aforesaid modification, this revision petition is disposed of.

August 10, 2018

Prince

(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No