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

**CR-1469-2023 (O&M)
Date of Decision: 13.03.2023**

Gian Singh and another

....Petitioners

Versus

Vijender Singh @ Bijju and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Johan Kumar, Advocate
for petitioners.

ARUN MONGA, J. (ORAL)

Petition herein is for setting aside order dated 14.02.2023 (Annexure P-5) passed by Ld. Civil Judge (Jr. Divn.), Palwal, whereby application of petitioner/plaintiffs filed under Order 26 Rule 9 CPC for appointment of Revenue Officer concerned as Local Commissioner for the purpose of demarcation of suit property was dismissed.

2. Succinct facts first, as pleaded in the revision petition.

2.1. Petitioners filed a suit for mandatory and permanent injunction stating therein that they are co-owner/co-sharers in joint possession along with other co-sharers of the suit property. It is further averred that respondent/defendants have made certain encroachment on suit property over an area measuring 121 sq. yards wrongly and illegally and despite requests made by petitioners, they have also raised construction towards the property of plaintiff/petitioners.

3. Upon notice in the above said suit, respondent/defendants appeared and filed written statement taking preliminary objections of *locus standi*, cause of action etc. and further stated that defendants have purchased the property in question and have got constructed residential house(s) since 1970 and there has been no encroachment by them.

4. Issues were framed in the present case and both the parties have now led their evidence. However, at the stage of rebuttal, the petitioner/plaintiffs have filed an application under Order 26 Rule 9 CPC for appointment of Revenue Officer as Local Commissioner for demarcation of suit property. However, the said application was dismissed vide order dated 14.02.2023.

5. Learned counsel for petitioners argues that the only dispute herein is with regard to demarcation of suit land in question as the ownership is otherwise admitted by respondents.

6. Heard.

7. Having seen para No.4 of the plaint and corresponding response thereto, I am of the view that learned counsel for petitioners is factually incorrect in canvassing the argument that the only dispute is with regard to demarcation. In para-wise reply to assertions made in para No.4 of the plaint, it has been clearly denied by respondent/defendants that petitioner/plaintiffs are owners of the area in question as they have not disclosed as to how much area was purchased by them and pursuant to which the area is in their possession.

7.1. That apart, there is a complete denial that the said area of 121 sq. yards falls squarely in the property purchased by plaintiffs.

8. In the premise, Ld. trial Court has rightly observed that plaintiffs, under the garb of appointment of Local Commissioner, are seeking to adduce certain evidence, that too at this belated stage when the case is fixed for final

arguments and has rightly rejected the application for seeking appointment of Local Commissioner. Needless to say, even if Local Commissioner is appointed, mere demarcation report will not reflect any proprietary rights which are also required to be adjudicated given the nature of pleadings.

9. Consequently, the revision petition is dismissed.
10. Pending civil miscellaneous application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

March 13, 2023
ashish

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