



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(129)

CR No. 6743 of 2025

Date of Decision : 30.09.2025

Sh. Bahadur Singh

...Petitioner

Versus

Balwinder Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL

Present: Mr. Arvind Kashyap, Advocate for the petitioner.

Amarinder Singh Grewal, J.

1. The present Civil Revision Petition has been filed by the petitioner under Article 227 of the Constitution of India for setting-aside the impugned order dated 04.07.2024 (Annexure P-17) passed by learned Civil Judge (Jr. Divn.), Dera Bassi, SAS Nagar, Mohali, Punjab, whereby the application filed by the petitioner-plaintiff for appointment of Technical Engineer as Local Commissioner to visit the spot, demarcate the wall as shown in the site plan and to report the existing factual position at site, was dismissed.

2. Brief facts of the case are that petitioner-plaintiff, Bahadur Singh son of late Sh. Harnam, had filed a suit for permanent injunction restraining the respondent/defendant from removing the pillar shown in the site plan and from removing the live electricity meter fixed by the respondent-defendant on the wall of the house of the petitioner-plaintiff. Relief was also sought to restrain the respondent-defendant from raising any further illegal construction on the wall of the petitioner's house as detailed in



the plaint. The petitioner-plaintiff further claimed recovery of ₹5,00,000/- as un-liquidated damages on account of the alleged illegal acts of the respondent-defendant.

3. During the pendency of the suit, the petitioner-plaintiff moved an application for appointment of Technical Engineer as Local Commissioner for demarcation and for reporting the existing condition at site.

4. The respondent-defendant contested the application. The learned trial Court, vide its order dated 04.07.2024 (Annexure P-17) held that no Local Commission can be appointed in favour of a party for collection of evidence and it is duty of the party to prove its case by leading cogent and convincing evidence and as such dismissed the application for appointment of Technical Engineer as Local Commissioner.

5. In view of the order proposed to be passed, notice is not being issued to the respondent as it would unnecessarily delay the proceedings and also entail additional expenses for the respondents.

6. Though, the application has been dismissed by the learned trial Court but this Court feels that it is well settled law that the appointment of a Local Commissioner under Order XXVI Rule 9 CPC is discretionary, such discretion must be exercised to advance the cause of justice. Where the dispute pertains to identification, demarcation or actual physical features of the suit property and no other effective method exists for determination of the controversy, the Court would be failing in its duty if it declines such appointment. The determination of substantive rights like ownership or possession may, in certain situations, be possible only through physical



demarcation and in such cases issuance of a commission may be warranted. The Commissioner is not to opine on possession but merely to record the factual position on spot, leaving appreciation to the Court.

7. Coming to the controversy in question, the case of the petitioner-plaintiff is that the house of the respondent-defendant adjoins his house and the respondent has illegally constructed a pillar at point ABCD as shown in the site plan and has further installed an electricity meter on the wall belonging to the petitioner. For effective adjudication of the dispute, this Court is of the considered opinion that appointment of a Local Commissioner was necessary so that the existing physical position of the suit property could be verified and reported.

8. In the present case, refusal to appoint a Local Commissioner has the effect of stifling adjudication of the real controversy.

9. Accordingly, the impugned order dated 04.07.2024 (Annexure P-17) cannot be sustained and is set-aside. The learned trial Court is directed to appoint a Local Commissioner, who shall visit the spot and submit a report regarding the existing physical position of the suit property.

10. The present Civil Revision petition is allowed in above terms.

11. Pending miscellaneous application, if any, also stands disposed of.

September 30, 2025
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(AMARINDER SINGH GREWAL)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No