



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

**CR-2274-2025**

**Date of decision : 29.09.2025**

DALBIR SINGH

....Petitioner

Versus

SURJAN SINGH AND OTHERS

...Respondents

**CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN**

Present : Mr. Lupil Gupta, Advocate and  
Mr. Sanjeet Sood, Advocate  
for the petitioner.

**PANKAJ JAIN, J. (ORAL)**

Challenge is to the order dated 14.01.2025 passed by Additional Civil Judge, Sr. Division, Patti.

2. Plaintiffs filed suit seeking removal and encroachment at the hands of defendants/petitioner. The suit stands decreed.

3. The present petitioner/JD moved an application under Order XXVI Rule 9 CPC seeking appointment of Local Commissioner to ascertain the extent of encroachment on the street in dispute which forms part of Khasra No.316.

5. Executing Court has dismissed the application filed by the JDs holding as under:

“The present execution was pending at the stage of evidence on behalf of JDs when the JD no.1 filed 2nd objections and then filed the application under order 26 rule 9 CPC. The JD



no.1 has sought appointment of local commissioner to ascertain whether there is encroachment at present in the street in dispute bearing Khasra no.316 or not. However, it is settled principle of law that Local Commissioner cannot be appointed to collect evidence, and otherwise also, once the present case is pending for evidence on behalf of JDs, then the JD no.1 would be at liberty to prove if any such encroachment mentioned in Decree dated 10.02.2001 has already been removed and in this manner, no prejudice would be caused to the JD no.1 if the present application is not allowed. In this regard, I relied upon judgments passed by the Hon'ble Punjab & Haryana High Court in cases titled *Ranjit Singh and others Vs. Gurbhej Singh and Others cited as 2014 (2) Law Herald 1766 and Harwinder Kumar Vs. Nasib Singh and Others cited as 2015 (2) Law Herald 1727.*

In view of my above discussion, the present objections and application are devoid of any merits and same are hereby dismissed. Hence, present objections and application stands disposed of.”

6. On being asked as to how the present petition would be maintainable, reliance is being placed upon ratio of law laid down in the case of ‘**Raj Kumar vs. Tarlok Singh and others**’ - CR No.6504 of 2018 decided on 18.01.2019 and ‘**Sunita Sodhi and another vs. Shaminder Singh Bedi and others**’ – CR No.4556 of 2022 (O&M) decided on 23.01.2023.

6.1. Counsel for the petitioner has drawn attention of this Court to the observations made in the penultimate paragraph of **Harvinder Kaur and another vs. Godha Ram and another, AIR 1979 P&H 76** wherein it has been held that it cannot be laid down as a general rule that in no case a



revision would lie against an interlocutory order passed under the provisions of Order XXVI. The same has to be ascertained in view of the facts and circumstances of each case. The proposition of law, cannot be disputed.

8. In the present case, the petitioner has already suffered a decree of mandatory injunction wherein he has been directed to remove encroachment from point A to D. It is for the JD to show that the decree stands complied with and has not been violated. Instead of adducing evidence to prove obedience of the decree, JD has moved present application seeking appointment of Local Commissioner to ascertain whether there is an encroachment from point A to D. The attempt is to reiterate the plea which was unsuccessfully raised in the suit.

9. In view thereof, this Court finds that by way of impugned order, the Executing Court has not decided any substantive right of the parties and has rightly declined interference holding that the JD cannot seek assistance of the Court to marshal evidence on his behalf.

10. In view thereof, this Court finds that the impugned order deserves to be maintained and requires no interference.

11. Resultantly, finding no merit in the present revision petition, the same is ordered to be dismissed.

**September 29, 2025**

**(Pankaj Jain)  
Judge**

Dpr

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No