



CR-6735-2025 (O&M)

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

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**CR-6735-2025 (O&M)
Decided on :- 22.09.2025**

Koshlya Devi @ Kaushalya Devi

...Petitioner

VERSUS

Banwari Lal and Others

...Respondents

CORAM : HON'BLE MS. JUSTICE MANDEEP PANNU

Present: Mr. Gurinder Singh Dhillon, Advocate and
Mr. Inderjeet Sihag, Advocate for the petitioners.

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MANDEEP PANNU J.

1. The present civil revision petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 21.08.2025 passed by the learned Civil Judge (Junior Division), Abohar, whereby the application moved by the defendants–respondents under Order 26 Rule 9 CPC for appointment of a Local Commissioner was allowed.

Brief Facts

2. The plaintiff–petitioner filed a suit for permanent injunction restraining the defendants from interfering in her peaceful possession over land comprised in Rectangle No.190, Khasra Nos.4, 5, 6 and 7 as per Jamabandi for the year 2020–2021, situated at village Waryamkhera, Tehsil Abohar, District Fazilka and further restraining them from uprooting the standing crop and plants standing thereon. The case of the plaintiff is that the defendants are strangers to the suit land and have no concern with it.



3. In the written statement, the defendants pleaded that the plaintiff is not in possession of the land, rather, the actual possession is with Sanjeev Bhadu, the son-in-law of the plaintiff. It was alleged that the suit has been filed at his instance only to obstruct a rasta (pathway) which is the only means of ingress and egress to the agricultural land and residential houses of the defendants. It was further stated that the said rasta passes through various rectangles including the suit land, and even underground water pipeline has been laid through the said path. Along with their written statement, the defendants also filed a counter-claim seeking injunction restraining the plaintiff from damaging the rasta and pipeline.

4. A separate application under Order 26 Rule 9 CPC was filed by the defendants praying for appointment of a Local Commissioner to inspect the spot and report regarding the existence, location, and nature of the disputed rasta. The trial Court, after hearing both sides, allowed the application vide impugned order dated 21.08.2025 and appointed a Local Commissioner.

Submissions on Behalf of the Petitioner

5. Learned counsel for the petitioner has assailed the impugned order contending that in various other civil suits filed by the defendants against Sanjeev Kumar, son-in-law of the present petitioner, similar applications under Order 26 Rule 9 CPC had been dismissed, yet in the present case the trial Court has taken a contrary view. It is argued that the Court should have considered the earlier orders as well. It was further submitted that a Local Commissioner cannot be appointed to collect evidence on behalf of either party, and the impugned order permitting the same is wholly unsustainable.

**Findings**

6. I have heard learned counsel for the petitioner and carefully perused the record.

7. The main controversy in the present case revolves around the existence, nature, and location of the disputed rasta allegedly passing through the suit land and other rectangles, and whether the same is being used by the defendants for access to their agricultural land and residential houses. The defendants have also claimed existence of an underground water pipeline laid beneath the said path. These questions cannot be effectively determined merely on the basis of revenue entries or pleadings of the parties. Local investigation is clearly necessary to elucidate the matter in controversy.

8. It is well settled that appointment of a Local Commissioner under Order 26 Rule 9 CPC is justified where the Court finds that local investigation is essential for a just decision of the case. Such appointment is particularly appropriate in matters involving rights of way and paths, where actual physical features at the spot are relevant and cannot be properly appreciated without inspection.

9. The contention of the petitioner that in other suits similar applications had been dismissed does not advance the case of petitioner-plaintiff. Each case has to be decided on its own pleadings and facts. The dispute regarding the rasta in the present case is the core issue, and the trial Court has rightly exercised its discretion in appointing a Local Commissioner.

10. The further submission that such appointment amounts to collecting evidence on behalf of a party is also without merit. A Local Commissioner's report is not substantive evidence by itself; it only assists the Court in appreciating the



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controversy. The parties will still have the right to file objections to the report and to lead their independent evidence.

Conclusion

11. In view of the above, this Court finds no illegality or perversity in the impugned order dated 21.08.2025 warranting interference under Article 227 of the Constitution of India. The trial Court has rightly held that a local investigation is required for just adjudication of the dispute regarding existence and nature of the disputed rasta.

12. Accordingly, the civil revision petition is dismissed.

13. Pending application(s), if any, also stand disposed of.

September 22, 2025
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(MANDEEP PANNU)
JUDGE

Whether speaking/non-speaking : Speaking
Whether reportable : Yes/No