



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(110)

CR No. 5850 of 2025

Date of Decision : 12.09.2025

Sh. Mahender Singh

...Petitioner

Versus

Sh. Amit Kumar and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL

Present: Mr. Manish Mehta, Advocate for the petitioner.

Amarinder Singh Grewal, J. (Oral)

1. The present Civil Revision Petition has been filed under Article 227 of the Constitution of India for setting aside the impugned order dated 11.08.2025 (Annexure P-1) passed by the learned Civil Judge (Junior Division), Kanina, whereby the application filed by the respondents-defendants under Order 26 Rule 9 CPC for appointment of Local Commissioner was allowed.

2. Briefly, the petitioners-plaintiffs instituted a suit for permanent and mandatory injunction restraining the respondents-defendants from raising any sort of construction over the suit land without partition.

3. It is the case of the petitioners-plaintiffs that the parties are co-sharers in agricultural land comprised in Khewat No. 369//321, Khatoni No. 375, Rectangle and Field Nos. 68//18/3 (2-0), 19(8-0), 21/1(1-16), 22/2(2-1), 23/1(3-16), 69//25(8-0), total 25 kanals 13 marlas, situated in Village Dhana, Tehsil Kanina, District Mahendergarh. The suit land is agricultural in nature, and any attempt by the respondents-defendants to raise construction would adversely affect the rights of the other co-sharers.



4. Per contra, the respondents-defendants have pleaded that apart from the suit property comprised in Khewat No. 369, land comprised in Khewat No. 368, Khatoni No. 374, Kite No. 15 measuring 61 kanals 12 marlas in the same village is also joint between the parties. It is further claimed that the respondents have already raised construction of houses on their respective shares as per an oral partition, and the revenue record does not reflect the true position on the spot.

5. The respondents accordingly filed an application under Order 26 Rule 9 CPC seeking appointment of a Local Commissioner. The learned trial Court, vide order dated 11.08.2025, allowed the application and appointed the Halqa Kanungo to inspect both Khewat Nos. 369 and 368 and to report whether permanent construction exists over the land in dispute. The said order is under challenge herein.

6. Learned counsel for the petitioners argued that appointment of a Local Commissioner in this case amounts to collection of evidence on behalf of the respondents, which is impermissible under Order 26 Rule 9 CPC. Reliance has been placed on *Gurpartap Singh @ Gurpavitar Singh v. Jagmeet Singh* (CR No. 6674 of 2013, decided on 19.03.2015) and *Sona Devi (deceased) through her LRs v. Rameshwar* (CR No. 272 of 2022, decided on 07.04.2025).

7. 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 respondent.

8. I have heard learned counsel for the revisionist-petitioner and perused the paper-book.



9. The trial Court found that both sides are asserting contrary positions with respect to the existence of construction over the land comprised in Khewat Nos. 369 and 368. In such circumstances, the appointment of a Local Commissioner was directed to bring the factual position regarding nature of the suit property on record.

10. A perusal of the impugned order reveals that the Local Commissioner has not been asked to collect evidence or report on possession of any party. His limited task is to verify whether any permanent construction exists over the suit property.

11. The judgments relied upon by learned counsel for the petitioners do not advance their case. In *Sona Devi* (supra), it was categorically held that appointment of a Local Commissioner under Order 26 Rule 9 CPC is discretionary and does not confer a vested right. The discretion exercised by the learned trial Court in the present case is within the settled parameters.

12. Accordingly, this Court finds no merit in the prayer for setting-aside the order dated 11.08.2025 (Annexure P-1) passed by the learned Civil Judge (Junior Division), Kanina. Finding no illegality therein, the present revision petition, being devoid of merit, is hereby dismissed.

13. Accordingly, the present revision petition is dismissed.

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

September 12, 2025
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(AMARINDER SINGH GREWAL)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No