

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

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CR-6593-2025

Date of decision :17.09.2025

RAM SARUP VERMA AND ANOTHER

... APPELLANTS

VERSUS

BALWANT SINGH LAMBARDAR AND OTHERS ...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Naveen S. Bhardwaj, Advocate and  
Mr. Tushar Gera, Advocate  
for the petitioners.

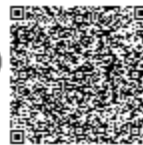
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**PARMOD GOYAL, J. (ORAL)**

1. The petitioners are aggrieved by the order dated 05.09.2025 (Annexure P-6), passed by the Civil Judge (Junior Division), Hisar, whereby the application under Order 26 Rule 9 CPC preferred by the plaintiff for appointment of Local Commissioner was allowed. The main grouse of the petitioners is that the learned Court of first instance erred in appointing the local commissioner, thereby permitting the collection of evidence in a manner that is impermissible under the law.

2. Learned counsel for the petitioners has placed reliance upon the following judgments in support of his submissions:

- (i) *Kewal Krishan Vs. Gram Sabha Teeka and another*, 2024 NCHHC 3687.
- (ii) *Prem Chand Vs. Randhir Singh*, 2017(3) RCR (Civil) 167.
- (iii) *Naseeb Deen and another Vs. Harnek Singh*, 2019 AIR Himachal Pradesh 173.



3. The precise argument raised before this Court was also raised before the learned Court of first instance and has been dealt with as under:

*“7. The contention of the defendants that appointment of a Local Commissioner would amount to collection of evidence does not hold good in the facts of the case. Evidence is what relates to disputed facts of the past that is what were circumstances and facts on the date of filing of suit, to be proved by witnesses and documents during trial. On the contrary, a Local Commissioner's report is confined to what exists at present on the spot. The Court is not delegating its adjudicatory function rather, it is only obtaining an aid for better appreciation of the current site situation. On the basis of such present circumstances, **the Court may draw appropriate inference at the stage of interim or final decision.** Hence, the present appointment cannot be equated with collection of evidence for either side. This court has utmost respect for the case laws cited on behalf of the defendant, however, these do not assist the case of the defendants as here report of LC will not amount to collection of evidences.*

*8. In view of the above discussion, the application is **allowed**. The concerned Kanungo is appointed as Local Commissioner, who shall visit the spot after issuing due notice to both parties and with the assistance of the Halqua Patwari. The Local Commissioner shall prepare a report with a site plan clearly demarcating the land of the plaintiffs as existing on the spot and shall also indicate from where access to the said land presently exists. He shall annex photographs with the report. **It is made clear that the Local Commissioner shall not record statements of any party or neighbour, nor shall he express any opinion regarding past user of the land or about the legal rights of the parties.** His report shall remain confined to a neutral description of the present physical condition of the spot only. The fee of the Local Commissioner is assessed at Rs. 5,000/-, to be paid by the plaintiffs. The report shall be submitted on or before the next date fixed.”*



4. On consideration of the impugned order, the arguments advanced on behalf of the petitioners, and the judgments relied upon by learned counsel for the petitioners, I do not find any error in the conclusion drawn by the learned Court of first instance in appointing a Local Commissioner to demarcate the land of the plaintiff as it exists on the spot and to indicate the point of access, if any, to the said land.

5. Perusal of the plaint reveals that the plaintiff has asserted that his land is situated adjoining the disputed rasta (pathway), which is duly recorded as a rasta in the revenue records. The grievance of the plaintiff in suit is that the defendants are restraining him from using the said rasta. Consequently, the plaintiff has filed a suit seeking a decree of mandatory and permanent injunction.

6. On the other hand, it is the case of the defendants that the suit rasta forms part of their private property and no public pathway exists at the spot. The defendants further contend that the entries in the revenue record were erroneous and have since been rightly rectified.

7. In view of the respective stands taken by the parties, the learned Court of first instance has rightly exercised the discretion vested in it to ascertain the factual position at the spot as it exists today. Therefore, no fault can be found with the order passed by the learned trial Court in appointing a Local Commissioner.

8. The principle stated in judgment cited by learned counsel for the petitioners, titled as *Prem Chand vs. Randhir Singh* (supra), are not in dispute. It is well settled that the Court has ample power under the provisions of the Code of Civil Procedure to appoint a Local Commissioner for local investigation, if such investigation is necessary for the just and proper adjudication of the matter in issue.



9. In the present case as well, the learned Court of first instance has recorded its due satisfaction while appointing the Local Commissioner. It is also well-settled that where the appointment of a Local Commissioner is sought solely for the purpose of collecting evidence, such an appointment is impermissible and ought to be dis-allowed.

10. However, upon appreciation of the facts and circumstances as noted by the learned trial Court, it is evident that the appointment of the Local Commissioner was made with the limited objective of ascertaining the existing status of the property on the spot, and not for the purpose of collecting evidence. The existing physical status of the suit property, as it stood at the time of filing of the suit as well as on today is indeed relevant and necessary for the just and effective adjudication of the issues involved.

11. Though the legal principles enunciated in the judgments relied upon by learned counsel for the petitioners are not in doubt, the same have no application to the facts and circumstances of the present case.

12. Similarly, in the judgments titled *Naseeb Deen and Kewal Krishan* (supra), the appointment of Local Commissioner was held to be not in accordance with law. However, the said findings were rendered in light of the facts and circumstances of those cases.

12. In *Naseeb Deen* (supra), the Local Commissioner was appointed during execution proceedings, which was found to be beyond the scope of the judgment and decree under execution. Likewise, in *Kewal Krishan* (supra), the appointment of a Local Commissioner was disallowed both by the trial Court and the High Court, as it was found that the plaintiff was attempting to initiate an inquiry through the Commissioner, rather than seeking clarification of the existing factual position relevant to adjudication.



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13. It is, however, pertinent to note that in all the above-referred cases, the Courts have assessed the legality of the appointment of a Local Commissioner based on the peculiar facts and in context of each case. Therefore, the judgments relied upon by the petitioners are distinguishable and have no application to the facts and circumstances of the present case.

14. In view of the above, no infirmity or illegality is found in the impugned order passed by the learned Court of first instance. The revision petition, being devoid of merit, is hereby dismissed.

17.09.2025  
manoj

**(PARMOD GOYAL)**  
**JUDGE**

Whether speaking/reasoned	Yes
Whether reportable	Yes/No