



CR-266-2025

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

(117)

CR-266-2025

Date of decision:- 17.01.2025

**Halwasiya Vidya Vihar Senior Secondary School, Bhiwani through its
Administrator, Sh. Shamsheer Singh**

... Petitioner

Versus

Jai Kishan and another

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Sudhanshu Makkar, Advocate for the petitioner.

SUVIR SEHGAL, J. (ORAL)

1. This petition has been filed under Article 227 of the Constitution of India for setting aside order dated 17.12.2024, Annexure P-10, passed by the learned Additional Civil Judge (Senior Division), Bhiwani, whereby application dated 10.01.2023, Annexure P-8, filed by respondent/defendant No.2, for appointment of a Local Commissioner has been allowed.
2. Counsel for the petitioner submits that the appointment of the Local Commissioner is beyond the scope of the pleadings of the parties and that it tantamounts to collection of evidence on behalf of the defendants, which is impermissible.
3. Counsel for the petitioner has been heard.
4. Petitioner-plaintiff had filed a suit for declaration to the effect that judgment and decree dated 04.11.2014, Annexure P-4, passed by the learned Civil Judge (Junior Division), Bhiwani in an earlier suit is illegal and against the facts on the record. A perusal of the plaint dated

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01.04.2016, Annexure P-2, filed by the petitioner shows that a specific averment has been made that on the basis of the report of a Local Commissioner, who was kept in the dark, decree, Annexure P-4, had been passed. The report dated 17.10.2014 of the Local Commissioner, which has been appended as Annexure P-3, has also been examined. The Local Commissioner has found that the entire property was mixed up and that the petitioner suggested that it was not possible to give land in khasra number 182/3, 8 and 9 as a school building was constructed on it. Recommendation was made for giving a portion of the land to the decree holder, while identifying it with lime chalk marking.

5. The report of the Local Commissioner was found to be inconclusive. In order to get clarity, the Trial Court by virtue of the impugned order has appointed the Halqa Girdawar as a Local Commissioner to visit the property, demarcate the boundary of the school and give a specific report regarding the existence of the school building as well as of the land, which falls in two revenue estates. The report of the Local Commissioner in the opinion of this Court would assist the Trial Court to arrival at a just decision. This Court does not find any infirmity or illegality in the impugned order.

6. Finding no merit in the petition, it is dismissed.

(SUVIR SEHGAL)
JUDGE

17.01.2025

Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No