



123 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 6520 of 2025 (O&M)
DATE OF DECISION: 16.09.2025

BALWINDER SINGH

.....PETITIONER

Vs.

GURDIAL SINGH AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL

Present: Mr.Harinder Singh, Advocate,
for the petitioner.

AMARINDER SINGH GREWAL, J.

1. Prayer in the present Civil Revision Petition filed under Article 227 of the Constitution of India is for setting aside the impugned order dated 07.08.2025 (Annexure P-5), passed by the learned Civil Judge (Junior Division), Batala, whereby the application filed by the petitioner-defendants under Order XXVI Rule 9 read with Section 151 of the Code of Civil Procedure, 1908 (for short, *the CPC*), seeking appointment of a Local Commissioner, has been dismissed.

2. The brief facts of the case are that contesting respondent No. 1-plaintiff, Gurdial Singh, son of Virsa Singh, filed a suit restraining the petitioner and proforma respondent-defendants or their agents/assignees etc. from encroaching upon, dismantling, demolishing or changing the passage/street marked as AJKL, shown in red colour in the site plan annexed with the plaint, which is adjacent to the land of contesting



respondent No. 1-plaintiff and the petitioner-defendant No. 1, bearing '*Khasra*' No. 56//7//1 (5-13), '*Khewat*' No. 3, '*Khatauni*' No. 84, as per '*Jamabandi*' for the year 2013-14, situated at Village Pabbarali Kalan, '*Hadbast*' No. 349, Tehsil Dera Baba Nanak, District Gurdaspur, in an illegal and forcible manner or in any other manner whatsoever.

2.1 Notice of the suit was issued to the petitioner-defendants, who filed their written statement on 30.08.2022 (Annexure P-2). Issues were framed and contesting respondent No. 1-plaintiff led his evidence. At that stage, the petitioner and proforma respondent-defendants filed an application dated 08.04.2024 (Annexure P-3) under Order XXVI Rule 9 read with Section 151 of the CPC. In the said application, it was submitted that the site plan filed by the plaintiff was incorrect and did not depict the actual position at the spot. The main bone of contention between the parties was that the plaintiff was alleging that the width of the passage in dispute was about 15 feet, whereas the stand of the defendants was that the width was 11 feet. Accordingly, a prayer was made for appointment of a Local Commissioner to visit the spot and submit a report regarding the condition and actual width of the passage.

2.2 The said application was contested by contesting respondent No. 1-plaintiff and was dismissed by the learned Civil Judge (Junior Division), Batala, vide order dated 07.08.2025 (Annexure P-5), i.e. the order now under challenge, by holding that the said fact could be established through production of revenue record.

3. Learned counsel for the petitioner submits that since there is a clear dispute regarding the width of the passage, the learned lower Court



should have allowed the application for appointment of a Local Commissioner, who could have visited the spot and furnished a detailed report.

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

5. In view of the order proposed to be passed, notice is not being issued to the respondents as it would delay the proceedings besides entailing additional expense.

6. Keeping in view the aforesaid facts and circumstances, it is evident that contesting respondent No. 1-plaintiff himself, in paragraph No. 2 of the plaint, stated that the passage/street marked as AJKL, shown in red colour in the site plan, exists from time immemorial and is the source of ingress and egress to his land as well as to other inhabitants of the locality. The dispute between the parties is confined to the width of the passage, the plaintiff claiming it to be 15 feet and the petitioner-defendant asserting it to be 11 feet. This controversy could appropriately have been resolved by appointing a Local Commissioner to verify the actual position at the spot. The learned Court below, instead of dismissing the application, should have allowed the same for a just and proper adjudication of the dispute.

7. Consequently, the present petition is allowed. The impugned order dated 07.08.2025 (Annexure P-5), passed by the learned Civil Judge (Junior Division), Batala, is set aside. The learned Court below is directed to appoint a Local Commissioner/Revenue Officer to visit the spot and submit a report regarding the actual and factual position of the passage in



question, so as to facilitate proper adjudication of the case.

8. Pending miscellaneous application(s), if any, shall also stand disposed of.

SEPTEMBER 16, 2025 (AMARINDER SINGH GREWAL)
nitin JUDGE

Whether Speaking	Yes
Whether Reportable	No