

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

128

CR-7415-2024

Date of decision : 11.02.2025

Bhupinder Singh

..... Petitioner

versus

Amarjit Kaur and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

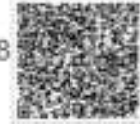
Present: Mr. Atul Jain, Advocate and
Ms. Sonika Garg, Advocate
for the petitioner.

PANKAJ JAIN, J. (Oral)

1. Instant revision petition is directed against order dated 23.10.2024 passed by Civil Judge (Jr. Divn.), Sultanpur Lodhi, whereby application filed by the plaintiff-petitioner under Order 26 Rule 9 CPC seeking appointment of Local Commissioner to demarcate the land in dispute stands rejected.

2. Plaintiff filed suit seeking decree of mandatory injunction against the defendants claiming that a public rasta has been encroached by the defendants. The residents including the plaintiff are facing difficulty.

3. Suit was contested by the defendants denying the allegation of there being any encroachment. Existence of rasta was denied. Instant application was moved under Order 26 Rule 9 CPC seeking appointment of Local Commissioner for the purpose of demarcation of passage forming part of khasra No. 1237/102/12-7 as per jamabandi for the year



2016-17, situated within the revenue estate of village Tashpur, Tehsil Sultanpur Lodhi, District Kapurthala.

4. Application stands declined by the Trial Court holding that once the plaintiff himself approached this Court asserting encroachment at the hands of defendants over the public passage, it cannot use the Court as an agency to collect evidence. Plaintiff has an independent remedy as provided under law to seek demarcation and thus, the application itself was not maintainable.

5. Learned counsel for the petitioner while assailing the impugned order submits that the Trial Court erred in ignoring the fact that the public passage has been denied by the defendants. There being serious dispute with respect to land being public rasta or not, the matter will be squarely covered by ratio of law laid down by Supreme Court in the case of ***Shreepat vs. Rajendra Prasad & Ors.*** reported as **2000(7) JT 379**, wherein the Court held that where there is a serious dispute with respect to areas and boundaries of land, there is no ineptness in getting the identification of the land established by appointing Local Commissioner.

6. The same ratio was followed by this Court in ***CR No.6026 of 2015*** titled as '***Nirmal Kumar vs. Smt. Arwinder Kaur and others,*** decided vide order dated 26.11.2025.

7. I have heard counsel for the petitioner and have carefully gone through the records of the case.

8. The petitioner relies upon revenue record to assert that the land which is subject matter of suit, is a public passage. It has been further claimed that defendant has encroached thereupon. The case



pleaded by the defendant is that the construction raised by him is not on the public passage and thus, there is no encroachment. Thus, the issue is encroachment and not the identification of property.

9. In view of above ratio of law laid down by Supreme Court in the case of *Shreepat (supra)* is not applicable. Trial Court rightly held that there being an appropriate remedy, the plaintiff if wants to get the land demarcated needs to approach the revenue authorities.

10. Finding no merits in the present revision petition, the same is disposed off with liberty to the petitioner to approach appropriate forum seeking demarcation, if so advised.

11. Ordered accordingly.

(PANKAJ JAIN)
JUDGE

11.02.2025

Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No