IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CMPMO No. : 100 of 2026
Decided on : 29.10.2026

Reeta Devi ...Petitioner

Versus

Ashok Kumar & Ors. ...Respondents

Coram

The Hon'ble Mr. Justice Virender Singh, Judge.

Whether approved for reporting?[1]

For the petitioner	:	Mr. Ganesh Barowalia & Mr. Verender Kumar, Advocates.
For the respondents	:	Mr. Sumit Sharma, Advocate.

Virender Singh, Judge (Oral)

Petitioner-Reeta Devi has filed the present petition, under Article 227 of the Constitution of India, against the order dated 12.01.2026, passed by the Court of learned Civil Judge, Jaisinghpur, District Kangra, H.P., (hereinafter referred to as 'the trial Court'), in Civil Suit No. 621/2021, titled as "Reeta Devi Vs. Ashok Kumar & Ors.".

2. By way of order dated 12.01.2026, the learned trial Court has dismissed the application under Order 26 Rule 9 of CPC, for appointment of the Local Commissioner.

[1] *Whether Reporters of local papers may be allowed to see the judgment? Yes.*

3. For the sake of convenience, the parties to the present *lis,* are, hereinafter referred to, in the same manner, as were, referred to, by the learned trial Court.

4. Brief facts, leading to the filing of the present petition, before this Court, as borne out from the documents annexed with the petition, may be summed up, as under:-

4.1 Plaintiff-Reeta Devi has filed a suit for permanent prohibitory injunction, with a prayer to restrain the defendants from interfering, changing the nature of suit land, taking forcible possession, causing any hindrance or obstruction in the construction work or boundary wall of plaintiff, digging any foundation, raising any sort of structure, cutting and removing any tree from the land comprising in Khata No. 211, Khatauni No. 285, Khasra No. 558/1, land measuring 00-02-71 hects., situated at Mohal Alampur, Patwar Varit Alampur, Hadwast No. 472, Up Tehsil Alampur, Tehsil Jaisinghpur, District Kangra, H.P. (hereinafter referred to as 'the suit land').

4.2 The suit has been filed on the ground that the plaintiff is co-owner in possession of the suit land and the

defendants are stated to be complete stranger to the suit land. Asserting the fact that when on 17.10.2021, the plaintiff tried to level the suit land and collected raw material for construction of boundary wall, then the defendants had created hindrance in the said work.

5. When put to notice, the suit has been contested by the defendants, by taking preliminary objections, as well as, they have disputed the fact that plaintiff is co-owner in possession of the suit land. Other averments have also been disputed/controverted.

6. The learned trial Court on 29.08.2022, framed the issues and parties were directed to adduce the evidence.

7. When, after the closure of the evidence of the parties, lis was pending for arguments, then, an application under Order 26 Rule 9 CPC, has been moved, with a prayer to appoint the Local Commissioner, to inspect the spot and report the change of nature of the suit land, affected by the defendants.

8. The said application has been moved on the ground that the application under Order 39 Rules 1 and 2 CPC filed by the plaintiff, was decided by the learned trial

Court on 28.08.2022, restraining the defendants from causing any sort of interference, in any manner, over the suit land, till the final disposal of the main suit.

9. According to the plaintiff, the defendants not only interfered in the possession, but also threatened the plaintiff with dire consequences.

10. Matter is also stated to be reported to the police of Police Post Alampur, but despite the fact that the police visited the spot, no heed has been paid by the defendants and they have made efforts to take possession of the suit land.

11. When put to notice, this application has been contested by the defendants.

12. Thereafter, the learned trial Court has dismissed the application, mainly on the ground that without setting aside the earlier demarcation report, second Local Commissioner, cannot be appointed.

13. These findings have been assailed, before this Court.

14. Heard.

15. Admittedly, lis, at the time of moving the application, under Order 26 Rule 9 CPC, was at the stage

of arguments. When it has been specifically mentioned in the order dated 12.01.2026, that earlier report of Local Commissioner is there on the file and same has admittedly not been set aside. In such situation, no jurisdictional error could be pointed out by the learned counsel for the plaintiff, in the order dated 12.01.2026. Consequently, the present petition is dismissed.

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

(Virender Singh)
Judge

29th October, 2026
(*Pramod Kumar*)