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

CR-1878-2025 (O&M)

Date of Decision : 10.02.2026

GURNAM SINGH

.... Petitioner

VERSUS

MITHU SINGH AND ORS

.... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Ms. Harmeet, Advocate for
Mr. Aarish Kamboj, Advocate for the petitioner.

ALKA SARIN, J. (ORAL)

1. The present revision petition has been filed under Article 227 of the Constitution of India challenging the order dated 04.10.2024 passed by the learned Civil Judge (Junior Division), Fazilka whereby an application filed under Order XXVI Rule 9 CPC for appointment of a Local Commissioner before the Executing Court was dismissed.

2. Brief facts relevant to the present *lis* are that the petitioner herein had filed a civil suit bearing No.61 dated 17.08.2015 titled as 'Gurnam Singh V/s Mithu Singh etc.' for permanent injunction for restraining the respondents and others from interfering into his peaceful possession over the plot/house as fully described in the plaint therein. The defendants therein appeared and filed written statement-cum-counterclaim. In the counterclaim, injunction sought was for restraining the petitioner herein from causing forcible, illegal and unauthorized interference into their peaceful possession. Vide judgment and

decree dated 08.08.2018 the suit filed by the petitioner herein was dismissed and the counterclaim was decreed. A petition was filed by respondent No.1 herein under Order XXI Rule 32 CPC stating that despite the injunction being passed in his favour, the petitioner herein had failed to comply with the decree. Objections were filed by the petitioner herein and a stand taken was that he was in possession of the house for the last more than 24 years. The application under Order XXI Rule 32 CPC was allowed vide order dated 13.02.2023 (P-1) and the petitioner herein was directed to vacate and deliver the possession of the plot in question within a period of 20 days. An application was filed by respondent No.1-decree holder for enforcement of the decree by way of attachment of movable and immovable property of the petitioner and also by detention in civil prison. The petitioner herein filed an application under Order XXVI Rule 9 CPC for appointment of a Local Commissioner to ascertain the actual and factual position of the alleged land measuring 8 Marla. The said application was dismissed vide order dated 04.10.2024. Hence, the present revision petition by the petitioner herein.

3. Learned counsel appearing on behalf of the petitioner would contend that since the land is not identifiable hence the application for appointment of a Local Commissioner ought to have been allowed.

4. Heard.

5. In the present case the stand taken by the petitioner that a Local Commissioner be appointed to identify the land cannot be entertained inasmuch as it was never the stand taken by the petitioner before the Civil Court that the land was not identifiable. Infact, it has been noticed in the order

dated 04.10.2024 that the petitioner herein had never denied the encroachment upon the plot measuring 8 Marla. Even before this Court, learned counsel for the petitioner is not in a position to deny the fact that no such stand was taken in the civil suit that the land was not identifiable. The present application appears to be nothing but a dilatory tactic as vide order dated 13.02.2023 the petitioner was directed to vacate and hand over the possession of the plot measuring 8 Marla.

6. In view of the above, I do not find any merit in the present revision petition and the same is accordingly dismissed. Pending applications, if any, also stand disposed off.

10.02.2026
Aman Jain

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No