



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

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CR-7066-2025 (O&M)
Date of Decision: 12.05.2026

Heera (since deceased) through LRs and others ...Petitioners

V/s

Harlal (deceased) through LRs and others ...Respondents

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Munish Gupta, Advocate, for the petitioners.
Mr. Tapan Kumar, Advocate, for respondents No.1(a) & 1(b).

VIKRAM AGGARWAL, J (ORAL)

The present revision petition, preferred under Article 227 of the Constitution of India, assails the order dated 10.09.2025 (Annexure P-12) passed by the Court of Additional Civil Judge (Sr. Divn.), Narnaul, vide which the objections filed by the petitioners/defendants/judgment-debtors to the report submitted by the local commissioner were dismissed.

2. A civil suit was instituted by the respondents/plaintiffs/decreed-holders (hereinafter referred to as "the respondents") against the petitioners/defendants/judgment-debtors (hereinafter referred to as "the petitioners") for permanent injunction. The said suit was decreed vide judgment and decree dated 24.03.2007 (Annexure P-1) with the following directions:-

"19. Keeping in view the findings on issues No.1 and 2 suit succeeds and is decree with costs and keeping in view the findings on issue No.9 application dated 27.11.1996 filed under Order 39 Rule 2A of CPC by contesting defendants is dismissed. A decree for permanent injunction is passed in favour of plaintiff and proforma defendants No.18 to 25. Whereby, defendants No.1 to 17 are permanently restrained from

interfering in the possession of plaintiffs and proforma defendants existing in khewat No.602 Khatoni No.856 rectangle and killa and khasra No.4640/1 situated at Kasba Narnaul Tehsil Narnaul as per jamabandi for the year 1989-90 and shown by letters QRTM as mentioned in the site plan at last page of report of local commissioner Ex.P3 dated 13.03.1993 prepared by Naiab Teshildar Mohindergarh. Defendants No.1 to 17 are further permanently restrained from opening any more Nala, Windows, appertures or to dig out or to install electric wires or to raise any Chhajja or to open any door into khasra No.4640/1 and in case any such encroachments described above are found existing in the suit land by defendants No.1 to 17, plaintiff will be entitled to seek the removal of such encroachments.”

3. Appeal against the said decision was dismissed by the Court of Additional District Judge, Narnaul, vide judgment and decree dated 20.04.2010 (Annexure P-2).

4. An execution petition (Annexure P-3) was filed alleging encroachment upon the suit property by the petitioners. Objections to the said execution petition (Annexure P-4) were also filed.

5. Pursuant to an application for the appointment of a local commissioner having been filed, the District Kanungo was appointed as a local commissioner vide order dated 30.01.2019 (Annexure P-5). The operative part of the said order reads as under:-

5. This Court is of the view that the suit of the plaintiff was decreed vide judgment and decree dated 24.03.2007 and the contesting defendants were restrained from interfering in the land comprised in khasra no.4640/1. Now as per the allegations levelled by the decree-holder, judgment debtors have violated the injunction order passed against them by raising construction and opening Nala, ventilators and gate towards his land. In such circumstances it is necessary to have the report of the Local Commissioner with regard to existing position at the spot because only then the present execution can be properly adjudicated. Resultantly, the application in hand stands allowed. District Kanungo is hereby appointed as Local Commissioner with a direction to visit the spot to submit his report with regard to the existing position at the spot after demarcating khasra no.4640/1 specifically with regard to the allegations levelled by the decree-holder. A copy of this order be send to District Kanungo. His fee is

assessed as Rs.2000/- which shall be borne by the decree holder. Now, to come upon 30.01.2019 awaiting of report of the Local Commissioner.”

6. The interim demarcation report (Annexure P-6) was submitted in which, it was stated that as per rules, the demarcation was carried out from three *pucca* points and *gathas* of all the four sides of each khasra number was necessary to be available. It was submitted that since the requisite details were not available, the demarcation could not be carried out. The relevant part of the report states as under:-

“In the Naksha (Shajra) available with the Area Patwari, Near Khasra No. 4640, there is no mentioning of any 'Gatha' with regard to any of the Khasra number. In Mutation No. 7510-Partition, three divisions of Khasra No. of 4640 i.e. 4640/1, 4640/2, 4640/3 have been prepared, whose 'gathas' are mentioned. At the spot, as per the 'gatha' mentioned in Khasra No.4640/1, 4640/2, 4640/3, effort was made to carry out demarcation; however, due to non-availability of 'gatha' of the nearby khasra numbers, the exact position of Khasra No. 4640/1, 4640/2, 4640/3 could not be established/located. In the said regard, both the parties were also enquired, as to whether they are having any document having mentioning of 'gatha' but in the said regard, they also showed their inability.

As per Rules, demarcation is carried out from 3 pucca marks (points) and 'gathas' of all the four sides of each khasra number is necessary to be available, wherefrom, with the pukhta marks, the entered 'Gathas' are confronted and the khasra number, whose demarcation is to be carried out, could be established.

Therefore, it is submitted that in such a situation, the orders of the Hon'ble Court cannot be complied with. Report is submitted.”

7. Objections to the said report (Annexure P-7) were submitted by the respondents stating that the report had been prepared in connivance with the petitioners.

8. Under the circumstances, vide order dated 08.02.2023, one Sh. Shamsheer Yadav, Advocate was appointed as a local commissioner. The operative part of the order is as under:-

“11. However, in this regard this Court is of the considered view that the purpose of executing Court is execute the judgment and decree passed in

favour of the decree holder and the executing Court cannot go beyond the decree. In the present execution petition, decree-holder is levelling allegations that JDs have violated the judgment and decree-dated 24.03.2007 and they have opened nala, parnala, windows and ventilator in Khasra No. 4640/1. So, in such a case, in order to clarify the actual position of the Court, this Court is of the considered opinion that no prejudice would be cause to the JDs if he bring on record actual position at the spot with regard to allegations levelled by the DH. So, Sh. Shamsher Yadav, Advocate is hereby appointed as LC alongwith concerned photographer who shall bring before the Court actual existing position at the spot specifically with regard to the allegations levelled by the decree-holder that judgment debtors have raised construction in Khasra No. 4640/1 and also opened nala, parnala, ventilators and windows. The concerned LC should also bring before the Court as to how many ventilators and windows have been opened by the JDs or by other persons if any and also bring before the Court width of Nala constructed by the JDs alongwith the wall of the house of the DH after passing of judgment and decree dated 24.03.2007 and after decision of appeal against the said judgment and decree.”

9. The said local commissioner submitted its report (Annexure P-9), stating as under:-

“A. That when the undersigned asked both the parties present at the spot about the disputed place, they told that there is issue of road. To go to the house of Decree Holder, from Mohalla Malitibba Narnaul, a road goes from north to south to village Mandi; and from that road, Decree Holders go to their fields and house situated in the east direction, and the point from which the said passage starts, dirty water from the houses flows out in the middle of the passage, from where, it is difficult to commute/visit and no car or other vehicle can either come or go through the passage properly; and by moving ahead, on the north side of this passage, judgment debtors have built houses and they, towards the passage of decree holders, in the southern wall of 4 their house, have built windows, 3 ventilations and 2 big drains and have installed 2 CCTV cameras and have built 2 drains below; and the passage, on the dirty water pipe has been buried in the soil; and water gets collected on the passage; and at the spot, 2 Camel Carts were parked on the passage; and 2 doors were removed and sticks were placed. All these apertures are also shown in the site plan prepared by the Draftsman Sh. Pawan Kumar. This Site Plot has been prepared by Sh. Pawan Kumar Verma, Draftsman, as per the site position, on my instructions; and wherein, the measurements of the windows and ventilators have also been recorded. The map prepared by

Sh. Pawan Kumar Verma, Draftsman, on 18.02.2023, is part of my report. The undersigned has got prepared 18 photographs of the existing position of the spot from Mr. Neeraj Kumar, which are part of the report of the undersigned and these photographs have been taken and prepared by the photographer, upon my instructions.”

10. Objections to the said report (Annexure P-10) were submitted by the petitioners, which were opposed by way of a reply (Annexure P-11).

11. Vide the impugned order dated 10.09.2025 (Annexure P-12), the said objections were dismissed leading to the filing of the instant revision petition.

12. I have heard learned counsel for the petitioners.

13. Learned counsel for the petitioners has strenuously urged that the impugned order is not sustainable. Reference has been made to the initial order vide which the local commissioner had been appointed, the report of the previous local commissioner, the subsequent order dated 08.02.2023 appointing Sh. Shamsheer Yadav as the local commissioner, the report submitted by the said local commissioner and the objections submitted thereto. Learned counsel has, while referring to the impugned order, submitted that the trial court did not consider the matter from the correct perspective and lightly brushed aside the objections raised by the petitioners to the report of the local commissioner. It has been argued that an Advocate was not the right person to demarcate the land and that, for the said purpose, the requisite procedure as laid down in the High Court Rules and Orders was required to be followed.

14. *Per contra*, learned counsel for respondents No.1(a) and 1(b) has submitted that there is no illegality in the impugned order. He submits that a detailed report had been submitted by the local commissioner and no objection was raised when the said local commissioner i.e. Sh. Shamsheer Yadav, was appointed vide order dated 08.02.2023. It has been submitted that

despite a decree having been passed in favour of the respondents as far back as in 2007, the same has not been executed on account of the delay tactics being adopted by the petitioners. It has been argued that there would be no necessity of appointing any other local commissioner and that the trial Court rightly rejected the objections.

15. I have considered the submissions made by learned counsel for the parties.

16. The trial Court simply dismissed the objections by stating that argument that the report did not explicitly show the demarcated boundaries of the land in question and the commissioner being an Advocate was not competent to determine such boundaries was merely technical. In the considered opinion of this Court, the trial Court committed an error in holding so.

17. The first local commissioner had stated that the demarcation was not possible. Reasons were given which have been noticed in the preceding paragraphs. The request of the respondents under such circumstances was to appoint a senior revenue officer/official as a local commissioner. The Court, however, appointed one Sh. Shamsher Yadav, Advocate as a local commissioner. No doubt, no objection was raised by the petitioners at that point of time. However, merely because no objection was raised at the relevant time would not mean that the said order was legal and valid. The trial Court should have appointed a senior revenue officer/official to carry out the demarcation, especially keeping in view the categorical report given by the local commissioner on 21.02.2019.

18. Even otherwise, the report dated 28.02.2023 submitted by Sh. Shamsher Yadav should not have been accepted by the trial Court because demarcation was not conducted in accordance with the procedure as

envisaged in the High Court Rules and Orders and the instructions issued by the Financial Commissioner.

19. That being so, the impugned order is found to be unsustainable. The revision petition is accordingly allowed and the impugned order dated 10.09.2025 (Annexure P-12) passed by the Court of Additional Civil Judge (Sr. Divn.), Narnaul, is set aside. The trial Court is directed to appoint a senior revenue officer/official as a local commissioner to carry out demarcation, in accordance with law and to then proceed with deciding the execution petition.

20. Since a long time has elapsed, the executing Court would be expected to proceed expeditiously in the matter.

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

(VIKRAM AGGARWAL)
JUDGE

May 12, 2026
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No