



CR No.9561 of 2025

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

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Civil Revision No.9561 of 2025
Date of decision: February 4th, 2026

Tarlok Singh

.....Petitioner

Versus

Nimral Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Shehbaz Thind and Mr. Sultan Singh, Advocates
for the petitioner.

VIKAS BAHL, J. (ORAL)

1. This is a civil revision petition under Article 227 of the Constitution of India for setting aside the order dated 08.09.2025 vide which the Civil Judge (Junior Division), Ludhiana, has dismissed the application filed by the petitioner for issuance of directions to the Tehsildar, Ludhiana (East), for demarcation of the property as shown in the site plan.

2. The facts of the present case would show that the petitioner, who is defendant No.3 in the suit, in spite of earlier two demarcations, one of which was conducted in pursuance of the order passed by the High Court in a writ petition filed by the petitioner and which order had been duly exhibited before the trial Court as Exhibit P-11, has chosen to file another application for demarcation without disclosing the earlier demarcations. The undisputed facts of the present case are detailed hereinbelow.

3. Respondents No.1 to 5 had filed a suit for permanent injunction with respect to the land comprised in specific khasra numbers, the details of which were given in the headnote of the suit. The relevant portion of the



headnote of the suit is reproduced hereinbelow:

“Suit for the grant of a permanent injunction whereby restraining the defendants either themselves or through their attorneys, employees, agents, and servants from in any manner illegally and forcibly interfering in the peaceful possession of the plaintiffs over the land detailed as under:-

a. Land measuring 6 Kanal 18 Marlas, comprised in Khewat No. 7, Khatoni No.7, Rect. No.7, Killa No.9;

b. Land measuring 8 Kanal 0 Marlas, comprised in Khewat No. 18, Khatoni No.19, Rect. No.4, Killa No.21;

c. Land measuring 4 Kanal 0 Marlas, comprised in Khewat No. 309, Khatoni No. 468, Rect. No.4, Killa No. 13/1;

d. Land measuring 16 Kanal 0 Marlas, comprised in Khewat No. 65/1, Khatoni No. 122/1, Rect. No.4, Killa No.12, Rect. No.7, Killa No.1:

e. Land measuring 8 Kanal 0 Marlas, comprised in Khewat No. 60, Khatoni No. 83, Rect. No.5, Killa No. 15min, Khatoni No. 84, Killa No. 15min:

f. Land measuring 6 Kanal 18 Marlas, comprised in Khewat No. 54, Khatoni NO.71, Rect. No.4, Killa No.9min, Khatoni No.72, Rect. No.4, Killa No.9 min;

g. Land measuring 8 Kanal 0 Marlas, comprised in Khewat No. 64, Khatoni No.99, Rect. No.5, Killa No.16min, 24min;

as per Jamabandi for the year 2012-2013, situated in Village Machhian Kalan, Hadbast No.41, Tehsil Koom Kalan, Distt. Ludhiana and from in any manner forcibly and illegally dispossessing the plaintiffs from the aforesaid land, on the basis of oral and documentary evidence.”



4. A perusal of the plaint would show that it was the case of the plaintiffs that the plaintiffs along with their brother Pardhan Singh were owners in possession of the land which had been described in the headnote from serial No. 'a' to 'f'. With respect to the land mentioned in serial No. 'g', it was the case of the plaintiffs that they were in possession of the same. It was stated that the land of the Forest Department was abutting the land of the plaintiffs and the Forest Department had built a boundary wall up to 8 feet high and the Forest Department had also got a barbed wire affixed on the top of the boundary wall thereby separating the land of the Forest Department from the land in possession of the plaintiffs. In paragraph 6 of the plaint, it was stated that defendants No.1 to 6, which included the present petitioner (defendant No.3), had a grudge against the plaintiffs and had filed a false application to the Deputy Commissioner, subsequent to which a demarcation was carried out by Forest Department on 06.05.2015 in the presence of the revenue officials and the officials of the Forest Department, who had submitted a detailed report that the land of the Forest Department was complete at the spot and the Forest Department had constructed a boundary wall around its own land and had fixed barbed wire on the top of the said wall.

5. It was further the case of the plaintiffs in paragraph 7 of the plaint that the present petitioner along with defendant No.2 had filed CWP No.11374 of 2015 before the High Court against the Forest Department, the plaintiffs and defendants No.7 to 9 on false allegations and in the said case, the Hon'ble High Court vide order dated 07.07.2015, had ordered for conducting a demarcation of the Forest Department land, which was



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conducted by a team of three Kanungos on 20.08.2015 in the presence of defendants No.7 to 9 well as representatives of defendants No.1 to 6 and the report which was submitted by the team of Halqa Kanungos showed that no part of the land of the Forest Department had been encroached upon by the plaintiffs and the boundary wall which was constructed was at the right place. It was stated in the plaint that ultimately the said writ petition was disposed of vide order dated 25.09.2017 (Annexure P-5) and in spite of the same, the defendants have been filing false applications one after the other against the plaintiffs.

6. From a perusal of the record as well as the observations made in the impugned order dated 08.09.2025, it is apparent that the first demarcation was conducted on 06.05.2015 in which the land of the Forest Department was demarcated in the presence of the revenue officials and the said demarcation report had already been produced on the file of the trial Court as Exhibits P-7 to P-10. In the writ petition filed by the petitioner as well as defendant No.2 i.e. CWP No.11374 of 2015, the High Court vide order dated 07.07.2015 had directed another demarcation to be carried out and on 20.08.2015, a team of three Kanungos, in the presence of the parties including the representatives of defendants No.1 to 6 (which included the present petitioner who is defendant No.3) conducted fresh demarcation and submitted a report to the effect that no part of the forest land had been encroached by the plaintiffs and the boundary wall made by the Forest Department was correct and thereafter the writ petition was disposed of vide order dated 25.09.2017, which order has been annexed as Annexure P-5 along with the present petition. It is also not disputed that the certified copy



of the said demarcation report is exhibited as Exhibit P-11 and the order dated 25.09.2017 is exhibited as Exhibit P-12 in the suit and that the petitioner along with other defendants have already cross-examined the plaintiffs' witnesses on the basis of the said reports. In spite of the above and without disclosing about the earlier two demarcations, an application dated 29.07.2025 was filed by petitioner-defendant No.3 for demarcating the property in question. In paragraph 3 of the said application, it was stated that no demarcation of the forest land had been conducted.

7. Learned counsel for the petitioner has submitted that the said application is meritorious and the demarcation should have been allowed in order to finally resolve the dispute.

8. The said submission made on behalf of the petitioner is completely meritless and the application was rightly dismissed by the trial Court vide order dated 08.09.2025 in which it was observed that already there were two demarcation reports on the record, one of which was in pursuance of the order passed by the High Court in the writ petition filed by the petitioner along with defendant No.2 and that the petitioner was guilty of concealment as there was no mention of the said two demarcation reports in the application filed for demarcation. It was further observed that no party can be permitted to seek assistance of the Court to collect favourable evidence and thus in view of the settled law, the application was dismissed with a cost of ₹1,000/-.

9. From the above, it is apparent that two demarcation reports are already on record and the petitioner has already cross-examined the witnesses of the plaintiffs with respect to the said two demarcation reports. It



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is not disputed before this Court that khasra numbers which are detailed in the headnote of the suit are not the khasra numbers which are owned or possessed by the Forest Department or by the petitioner or the other defendants or that they have any right qua the same. The prayer in the suit is for grant of injunction regarding the said khasra numbers qua which admittedly neither the Forest Department nor the petitioner has any right or concern and thus, this Court fails to understand as to on what basis the petitioner and the other defendants are filing applications for demarcating the land. In the written statement, it is the plea of the petitioner that the plaintiffs have encroached upon the land in Village Garhi Fazal, which is adjoining to the suit land and as per the petitioner is forest land, however, it is not disputed that no suit has been filed by defendant No.3/petitioner against the plaintiffs either for injunction or for possession. The same has not been done in spite of the fact that the writ petition i.e. CWP No.11374 of 2015 filed by the petitioner and defendant No.2 in which a prayer was made for taking action against the Forest Authorities for allegedly allowing the private respondents therein, which undisputedly included the plaintiffs, to encroach upon the land which as per the case of the petitioner belonged to the Forest Department, was dismissed, although it was kept open to the petitioners therein, which included the present petitioner, to seek remedy by filing civil suit or by approaching appropriate forum.

10. Additionally it would be relevant to note that the petitioner by moving the present application in effect, is wanting to seek appointment of Local Commissioner. The Division Bench of this Court in the case of **Pritam**

Singh Vs. Sunder Lal reported as **1990(2) PLR 191** had observed that the



order refusing to appoint a Local Commissioner does not decide any issue nor adjudicates rights of the parties for the purpose of the suit and is therefore not revisable. Learned Single Judge, vide judgment dated 18.07.2022 passed in ***Civil Revision No.2752 of 2022*** in case titled as ***Harchand Vs. Karambir Singh and another***, by placing reliance upon the above-said judgment of Division Bench and also the judgment of the learned Single Bench in ***Raksha Devi Vs. Madan Lal and others*** reported as ***2017 (3) PLR 249***, had observed that no revision would be maintainable against an order dismissing an application for appointment of a Local Commissioner. The relevant portion of the said judgment in Harchand's case (supra) is reproduced as under: -

“4. Learned counsel appearing on behalf of the plaintiff-petitioner has contended that the appointment of the Local Commissioner would be necessary in order to bring on record the existing position of the suit property.

5. Heard.

*6. In the present case the challenge is to the order dismissing the application for appointment of a Local Commissioner. A Division Bench of this Court in the case of ***Pritam Singh Vs. Sunder Lal [1990(2) PLR 191]*** inter-alia held as under:*

*“6. After going through the judgments cited in the reference order, we do not find that the earlier judgment in *Harvinder Kaur's* case (supra) requires any reconsideration. The order refusing to appoint a local commissioner does not decide any issue, nor adjudicates rights of the parties for the purpose of the suit and is, therefore, not revisable. The distinction sought to be made by the learned Single Judge in view of the*



Judgment in M/s Sadhu Ram Bali Ram's case (supra) was clearly noticed by the Division Bench in Harvinder Kaur's case (supra) and it was observed:

"It may be observed that the facts of M/s Sadhu Ram Bali Ram's case were different as in that case the onus of an issue had been wrongly placed and while deciding that question, it was held that such an order would be revisable."

Apart from that, placing the onus of an issue has something to do with the rights of the parties whereas refusing to appoint a Commission under Order 26, Rule 9, Code of Civil Procedure, has nothing to do with the rights of the parties as such. It is the discretion of the Court to appoint a Commission there under and if the Court refuses to appoint a Commission, then no right of any party can be said to be prejudiced as such."

*7. Similar view has been taken by this Court in the case of **Smt. Raksha Devi Vs. Madan Lal & Ors. [2017(3) PLR 249]** wherein it has categorically been held that no revision would be maintainable against an order dismissing an application for appointment of a Local Commissioner. It is trite that an order refusing to appoint a Local Commissioner does not decide any issue nor does it adjudicate any rights of the parties for the purpose of the suit and hence would not be a revisable order.*

8. In view of the law laid down by the Division Bench of this Court, I do not find any illegality or irregularity in the order passed by the Court below.

9. The revision petition is accordingly dismissed.

Pending applications, if any, also stand disposed off."



11. The provision of Order 26 Rule 9 CPC is reproduced hereinbelow:-

“9. Commissions to make local investigations. In any suit in which the Court deems a local investigation to be requisite or proper for the purpose of elucidating any matter in dispute, or of ascertaining the market-value of any property, or the amount of any mesne profits or damages or annual net profits, the Court may issue a commission to such person as it thinks fit directing him to make such investigation and to report thereon to the Court;

Provided that, where the State Government has made rules as to the persons to whom such commission shall be issued, the Court shall be bound by such rules.”

A perusal of the said provision would show that the same provides that it is within the power of the Court to issue a Commission to such person as it thinks fit, to make an investigation on some aspect. A further reading of the said provision would show that there is no right vested in favour of a party to get the said commission issued and rather the same is an enabling provision that enables the Court to appoint a Commissioner if it is of the opinion that the same is required in a case. Moreover, it is not for the trial Court to collect evidence for the petitioner-defendant No.3.

12. Keeping in view the abovesaid facts and circumstances, the impugned order deserves to be upheld and is accordingly upheld and the present revision petition being meritless, deserves to be dismissed and is accordingly dismissed.

February 4th, 2026
Puneet

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : Yes