

IN THE COURT OF CIVIL JUDGE-I (SR. DIV.), PIRO AT BHOJPUR

Title Suit No. 99 of 2025

Dharnidhar Rai vs. Gopal Rai & Ors.

S.L. No.	Date of Order of Proceedings	Order with signature of Court	Office action taken with date/ Remarks
	13.08.2026	<u>ORDER</u> Attendance is filed on behalf of the plaintiff through learned counsel. On call, ld. counsel on behalf of the plaintiff appeared. No attendance/pairvi has been filed on behalf of defendants. Ld. counsel for the plaintiff has moved his petition dt. 25.06.2025 filed under Order XXVI Rule 10A read with Section 151 C.P.C. It has been prayed for appointment of survey knowing Advocate Commissioner who could conduct scientific measurement. It is stated that despite having knowledge of the case, the defendants did not appear. It has been further submitted by the plaintiff that after gazatte proceedings, the case was posted <i>ex-parte</i> and the next date has also been fixed. The case is regarding encroachment, in which measurement by scientific method is necessary and for that the appointment of survey knowing Advocate Commissioner is necessary. The disputed property is situated at mauza Mansagar, police station 221, district Bhojpur bearing khata no. 142, khesra no. 974, ara 13 decimal and on its northern side, the plaintiff had left his private road/passage measuring 6 feet wide and 60 feet long running from east to west which the defendants have forcibly enclosed with a wall. Therefore, it is necessary that encroached land be measured by a survey knowing Advocate Commissioner. The plaintiff has pleaded the need of scientific measurement in his pleading and thus for just decision of the case, such measurement is essential. The plaintiff has given few points on which such report has been called from the said commissioner. Heard at length and perused the case record. The plaintiff has filed this suit with prayer <i>inter alia</i> for declaration of his title over schedule <i>ka</i> land of the plaint and for further declaration that the road/passage left measuring 6 feet wide and 60 feet long belongs to the plaintiff. He has also sought relief regarding recovery of possession in case of dispossession. <i>Ex-parte</i> hearing has been ordered against defendant nos. 1 to 6 on 02.07.2026. Before appointment of a commissioner, it is necessary for this Court to discuss the relevant law. <u>Commission for scientific investigation:-</u> (1) Where any question arising in a suit involves any scientific investigation which cannot, in the opinion of the Court, be conveniently conducted before the Court, the Court may, if it thinks it necessary or expedient in the interests of justice so to do, issue a commission to such person as it thinks fit, directing him to inquire into such question and report thereon to the Court.	
Continue...			

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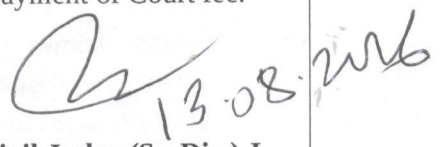
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(2) The provisions of rule 10 of this Order shall, as far as may be, apply in relation to a Commissioner appointed under this rule as they apply in relation to a Commissioner appointed under rule 9.

In this case, the plaintiff has sought relief regarding encroachment and claimed his title over the path described in detail in 'schedule ka' of the plaint. It appears necessary in the interest of justice to issue a commission for the purpose directing him to inquire into questions mentioned in petition and report within time as per rule. Hence, petition dated 25.06.2025 is allowed subject to payment of Rs. 3,000/- as the fee of such Commissioner which is to be deposited in the *Nazarat* of this Court.

The officer clerk is directed to issue letter of request to the Principal District Judge, Bhojpur at Ara for deputation of Commissioner upon the payment of Court fee.

Put up on 31.8.26 for further proceedings.


13.08.26
Civil Judge (Sr. Div.)-I
Piro at Bhojpur