

IN THE COURT OF MUNSIF, SHAHPUR PATORI, SAMASTIPUR

Present P.O. Sri Piyush Ranjan

Title Suit No. 51/2019

Must. Kanti Devi

...Plaintiff

Versus

Bhullah Sahni and Others

...Defendants

Date	Order with signature of the Magistrate	Remarks
<u>17.07.26</u>	The present petition dated 18.06.2025 read with subsequent petition dated 06.07.2026, has been filed by the plaintiff seeking rejection of the report submitted by Ld. Survey Knowing Pleader Commissioner and for the issuance of a fresh writ of commission in favour of another SKPC. Plaintiff has alleged that the Ld. SKPC failed to satisfactorily answer the queries of plaintiff's advocate, failed to conduct a scientific investigation in proper manner and also conducted the investigation without issuance notice to the defendants and other concerned stakeholders. He also alleged that the Ld. SKPC acted in collusion with the defendants to prejudice the plaintiff's case, incorporated unnecessary facts in the report and violated the norms provided under Order 26 Rule 10A of C.P.C. Perused the record on perusal it appears that the allegations leveled against Ld. SKPC are serious in nature, however they remain wholly unsubstantiated, no cogent material has been placed on record to establish the malafides, collusion or deliberate misconduct by Ld. SKPC. Mere dissatisfaction with the findings of the commissioner cannot constitute a valid ground either to reject the report or to appoint a fresh SKPC. The grievance regarding non service of notice upon the defendants is of no consequence in the present case as the defendants have already chosen not to appear. The plaintiff has also failed to demonstrate any prejudice caused by alleged procedural laps. Likewise, the inclusion of certain unnecessary	
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observations in the report does not rendered the same to be discarded as a whole, as a commissioner's report is only a piece of evidence and its evidentiary value is to be assessed by the Court at the stage of appreciation of evidence.

The Hon'ble Supreme Court in **Haryana Waqf Board vs. Shanti Sarup & Ors.** held that the report of Commissioner forms the part of evidence on record and cannot be discarded or a fresh Commission cannot be issued merely because party is dissatisfied with its collusion, unless substantial infirmity or prejudice is established.

In the present case no material irregularity or legal infirmity has been shown warranting rejection of the report or appointment of a fresh SKPC. The plaintiff shall remain at liberty to assail the report during trial and the evidentiary value of the report will be considered at the latest stage strictly in accordance with law.

Accordingly, the petition dated 18.06.2025 and 06.07.2026 are hereby **rejected.**

Put up on 03.08.26 for plaintiff evidence.

Dictated

C.J.J.D.
Shahpur Patori