

09.12.2025

Present : None for the plaintiff.
None for defendants.

Today, matter is listed for order on application
under order 26 rule 9 CPC filed by plaintiff.

Be awaited.

(Gaurav)
District Judge-01/ SHD
KKD/Delhi/09.12.2025

(04.35 pm)

Present : None.

ORDER

1. Vide this order, I shall proceed to decide the application filed by the plaintiff under Order XXVI Rule 9 read with Section 151 of the Code of Civil Procedure, 1908 (*hereinafter referred to as "CPC"*), seeking appointment of a Local Commissioner for inspection of the suit property in view of compelling and just circumstances.

2. No formal reply has been filed to the application, though defendant no.1 has opposed the same through oral submissions.

3. Arguments were heard at length from Ld. Counsels for both sides.

4. Ld. Counsel for the plaintiff contended that the appointment of a Local Commissioner is not only necessary but crucial, given the prevailing circumstances wherein the defendants, in a wilful and

calculated manner, have disregarded and disobeyed the binding interim order dated 14.03.2023 of this Court, whereby they were restrained from creating third-party interest in the suit property, till the pendency of the suit.

5. He further contended that the defendants have illegally replaced the previous tenants with new occupants, thereby undermining the lawful rights of the plaintiff.

6. He further contended that the present suit is one for partition, separate possession, permanent injunction and rendition of accounts, and that the interim order dated 14.03.2023, continues to operate. In spite of this, defendants have deliberately violated the directions, necessitating urgent inspection of the suit property to ascertain the current possession status and particulars of occupants.

7. Per contra, the Ld. Counsel for the defendant no.1 vehemently opposed the present application and contended that the plaintiff is attempting to harass the defendant no.1 by filing repeated applications.

8. He further contended that the allegation of violation of the interim order is baseless and unsupported by cogent evidence. The appointment of a Local Commissioner, at this stage, would amount to granting the plaintiff an opportunity to collect evidence in his favour, which is impermissible in law.

9. I have considered the rival submissions made by the parties and perused the material available on record.

10. As per order XXVI Rule 9 of the Civil Procedure Code, 1908, it empowers the court to appoint a Local Commissioner to conduct a local investigation when it is necessary for the purpose of elucidating any matter in dispute.

11. The interim order dated 14.03.2023 restraining creation of third-party interest is binding on the defendants. The report of the Process Server indicates that summons and notice to defendant nos. 6 to 8 returned unserved with the endorsement that the concerned persons had *“already left the given address.”*

12. In the present case, the appointment of a Local Commissioner is warranted to ascertain the current possession status of the suit property and identify the occupants. The objection of defendant no.1 that such appointment would amount to collection of evidence is misplaced, as the inspection is intended to aid the Court.

13. Accordingly, the application is hereby allowed. This Court hereby appoints **Mr. Mohd. Shuaib Khan Advocate, Enrollment No. D/1461/2013 Chamber No. 330, Patiala House Courts, New Delhi-110001, e-mail mohdshuaibkhan007@gmail.com Mobile No. 9711876418 as Local Commissioner** to conduct inspection of the suit property. The Ld. Local Commissioner shall visit the suit property i.e. *entire built up residential property no. 265 & 267 (amalgamated), total area measuring around 50, sq. yards approximately, situated in the abadi of Kabool Nagar, GT Road, Illaqa Shahdara, Delhi-110032,* within two weeks from receipt of this order, after giving prior intimation to both parties. The inspection shall be conducted in the presence of the parties and their respective counsel, or any authorized representatives on their behalf. The Ld. Local Commissioner shall ascertain and record the current status of occupation of the suit property, including names and particulars of persons found in possession. He shall conduct videography and photography of the premises, ensuring coverage of all portions of the suit property. He shall prepare a comprehensive report detailing the physical condition of the suit property, identity and particulars of occupants, and any

material indicating induction of new occupants, if any. The report shall be duly supported by photographs, video recordings, and any relevant documents, and shall be submitted to this Court within three weeks of inspection.

14. The Local Commissioner shall be entitled to a fee of Rs.25,000/- (Rupees Twenty-Five Thousand Only), which shall be paid by the plaintiff in advance, at least two days prior to the scheduled visit to the suit property. Plaintiff shall also bear the expenses for the photography and videography separately. Both parties are directed to extend full cooperation to the Local Commissioner during the inspection. Any obstruction or non-cooperation shall be viewed seriously and may entail adverse consequences.

15. The present application is disposed of accordingly.

16. Copy of this order be given to Ld. Local Commissioner for necessary compliance.

17. **Matter be listed for report of LC on 09.03.2026.**

(GAURAV)
DISTRICT JUDGE-01
SHAHDARA DISTRICT
KARKARDOOMA COURTS
DELHI