

25 CS DJ 130/2013 6119/16
JILE SINGH AND ANOTHER Vs. DDA AND OTHERS

13.08.2026

Present : Ld. Counsel for the plaintiff.
Ms. Promila Kapoor, Ld. Counsel for the defendant
through VC.

ORDER

1. Vide this order, the present court shall decide the application under Order XXVI Rule 9 read with Section 75 CPC filed by plaintiff no. 2 seeking appointment of a Local Commissioner to carry out investigation and demarcation of the suit property.
2. It is stated in the application that despite the earlier directions of this court for demarcation of the suit property, the final demarcation report has not been filed by the concerned Revenue Authorities. It is, therefore, prayed that a Local Commissioner be appointed to carry out fair investigation and demarcation of the suit property.
3. Ld. Counsel for the DDA opposed the application and submitted oral arguments. It was argued that demarcation of the suit property cannot be carried out by a Local Commissioner appointed by the court. It is submitted that demarcation is required to be conducted by the competent Revenue Authorities in accordance with law and not through a Local Commissioner.

4. I have heard the arguments and perused record carefully.
5. The power under Order XXVI Rule 9 CPC is discretionary and is to be exercised only where the court finds that a local investigation is necessary for proper adjudication of the dispute.
6. The order under Order XXVI Rule 9 CPC permits appointment of the Local Commissioner for local investigation, but the Local Commissioner cannot decide the title and he cannot perform specialised survey functions. Moreover, it cannot substitute the statutory authority where technical demarcation is required.
7. Here in the present application, the plaintiff is essentially asking the court to appoint a Local Commissioner to establish that the land falls outside the acquisition. In the present case, a Local Commissioner cannot be made an expert witness for one side for performing the demarcation. The presence of DDA is also essential as DDA is having the acquisition record, apart from the field staff who are having knowledge regarding the acquired boundaries. Moreover, demarcation cannot be happen in absence of either party.
8. On perusal of the record, it is observed that this court had already directed demarcation of the suit property through the competent Revenue Authorities. In these circumstances, the present court is of the view that appointment of a Local Commissioner is neither necessary nor appropriate. The demarcation of the suit property is required to be undertaken by

the competent authorities themselves as it is a highly technical issue. However, as the legal position is not clear till date on this aspect and the demarcation is necessary, concerned DM/SDM are directed to conduct demarcation with TSM Method alongwith DDA to ensure proper demarcation of the suit property. The plaintiffs would also be present when the demarcation is to be done by the officials of the Revenue Authorities. Notice would be given to both the parties before the survey and both the parties are directed to remain present at the time of the demarcation proceedings. The objection of either party would be recorded during the survey. Survey report would annex maps, coordinates, field notes and photographs.

9. Accordingly, it is directed that the demarcation of the suit property shall be carried out jointly by the officials of the Delhi Development Authority (DDA) and the SDM/Revenue Department by adopting the Total Station Machine (TSM) Method. The said authorities shall carry out the demarcation strictly in accordance with law and submit the demarcation report before the court.
10. It is further directed that the entire cost and expenses for carrying out the demarcation through the TSM Method shall be borne by the plaintiff, who shall deposit the requisite charges with the concerned authority within the time prescribed by the said authority.

11. In view of the above directions, no case is made out for appointment of a Local Commissioner under Order XXVI Rule 9 CPC. Accordingly, **the present application stands disposed of with the aforesaid directions.**
12. Put up for further proceedings on **05.10.2026.**

(Ambika Singh)
District Judge-01, South District,
Saket Court, New Delhi
13.08.2026