

PROCEDURE OF APPOINT

LOCAL

COMMISSIONER

(LC)



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What is a Local Commissioner (LC)?

A **Local Commissioner (LC)** is an officer **appointed by the court** to assist it in gathering evidence or conducting certain fact-finding tasks **outside the courtroom**, such as inspecting a site, verifying records, or executing a commission.

The LC acts as an “**extended arm of the court**” — not as an advocate for either party, but as a **neutral fact-finder**.

Legal Basis

- **Order XXVI, Code of Civil Procedure, 1908 (CPC)** – governs Commissions.
 - **Sections 75–78 CPC** provide the **power to issue commissions**.
 - **Order 26 Rules 9, 10, 10A, 11, 12, etc.** explain the **procedure and scope**.
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When & Why LC Is Appointed

The Court may appoint a **Local Commissioner** for several reasons, such as:

Purpose	Relevant Rule / Provision	Example
To make a local investigation	Order 26 Rule 9	Measurement of land, boundary disputes, site inspection, encroachment verification.
To record evidence	Order 26 Rule 4A	When witness cannot attend court (elderly, infirm, official witness).
To examine accounts	Order 26 Rule 11	Business or partnership accounting disputes.
To conduct partition or sale	Order 26 Rules 13–14	In partition suits or execution of decrees.
To hold scientific/technical examination	Rule 10A	Expert examination, handwriting verification, etc.
To take possession / prepare inventory	In execution / family / property matters	During enforcement of court orders or sealing premises.

Who Appoints the LC

- The **Court itself** (Civil Judge, District Judge, or High Court) appoints the Local Commissioner.
 - Appointment may be made:
 - **Suo motu** (by the court on its own), or
 - **On application of either party** (plaintiff or defendant).
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Who Can Be Appointed as LC

Usually:

- An **Advocate** practicing in that jurisdiction (impartial and experienced), or
- A **Government officer / technical expert**, depending on the nature of inspection (e.g., engineer, surveyor, accountant).

The LC must be **neutral** and **not connected** with either party.

Procedure for Appointment

1. Application Filed:

- A party (plaintiff or defendant) files an application under **Order 26 CPC** requesting appointment of LC.
- The application must specify:
 - Purpose (inspection, evidence, accounts, etc.)
 - Reasons why LC is necessary
 - Proposed person's name (optional)

2. **Notice to Opposite Party:**

- The court usually issues notice to the other side before appointing LC (unless urgent).

3. **Court's Order:**

- The judge passes an order appointing LC with clear terms:
 - Scope of inquiry (what to inspect, record, measure)
 - Time period
 - LC's fee (called **commissioner's fee**)
 - Deadline for submitting report

4. **LC's Work:**

- LC visits site / conducts examination / records evidence.
- Prepares a **Local Commissioner's Report** (with photographs, maps, signatures, etc.).
- Submits it to the court within the specified time.

5. **Filing of Report:**

- The report is placed on record.

- Both parties can **file objections** to it if they disagree.

6. Consideration by Court:

- The court considers the LC report, objections (if any), and may:
 - Accept the report, or
 - Modify it, or
 - Direct a fresh commission.

Why LC Is Important

- Helps the court **ascertain factual conditions on-site**.
- Saves time and judicial effort.
- Prevents parties from **tampering with evidence** or misrepresenting facts.
- Ensures **transparency** — as LC works under court direction.

Key Case Laws

Case	Citation	Principle
Haryana Waqf Board v. Shanti Sarup & Ors.	(2008) 8 SCC 671	LC's report is a piece of evidence; not binding, but carries persuasive value.

Case	Citation	Principle
K. K. Velusamy v. N. Palanisamy	(2011) 11 SCC 275	LC should not be appointed to collect evidence; only to clarify facts when necessary.
Rajesh Bhatia v. G. Parimala	AIR 2010 Mad 134	Court can appoint LC even without party's application if it feels it will help just adjudication.

In Summary

Point	Explanation
Who appoints	The court (civil, family, or high court).
When appointed	When physical verification, evidence collection, or expert assistance is needed.
Purpose	To help court ascertain facts objectively and prevent injustice.
Power source	Sections 75–78, Order XXVI CPC.

Point	Explanation
Report status	Not conclusive, but persuasive and aids decision-making.

