**FORM OF APPOINTMENT OF COMMISSIONER**

COMMISSION TO MAKE A PARTITION

(O. 26, R. 13)

(Title)

To

Whereas it is deemed requisite for the purposes of this suit that a commission should be issued to make the partition or separation of the property specified in, and according to the rights as declared in, the decree of this Court, dated the.................. day of.................. 19..................; You are hereby appointed Commissioner for the said purpose and are directed to make such inquiry as may be necessary, to divide the said property according to the best of your skill and judgment in the shares set out in the said decree, and to allot such shares to the several parties. You are hereby authorized to award sums to be paid to any party by any other party for the purpose of equalizing the value of the shares.

Process to compel the attendance before you of any witness or for the production of any documents, whom or which you may desire to examine or inspect, will be issued by any Court having jurisdiction on your application.

A sum of Rs.................... being your fee in the above, is herewith forwarded.

Given under my hand and the seal of the Court, this.................. day of.................. 19..................

**Judge**

**CASE LAW**

**EFFECT OF LOSING CONFIDENCE OF BOTH PARTIES ON THE POSITION OF LOCAL COMMISSIONER**

There is no necessity for calling for the report of the local Commissioner who has lost faith of both the parties. The report of the local Commissioner is never sacrosanct. It is open to objection and the Court is not bound to follow it. (P&H)1.

**POWERS OF COMMISSIONER NOT EXHAUSTIVE**

The powers of a Commissioner given in Order 26 of the Code are not exhaustive. The Court can direct the Commissioner to discharge the functions prescribed by section 48 of the Partnership Act2.

1. Devinder Mohan v. Tilak Raj, 1985 (2) C. C. C. 860.

2. Gupta Steel Industries v. Balvir Kumar, A. I. R. 1980 P&H 215: 1980 Cur. L. J. (Civ.) 250.