

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Civil Revision No.1365 of 2015 (O&M)

Date of decision: 03.12.2015

Inderjit Kaur

.....Petitioner

versus

Gulzar Singh and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Atul Lakhanpal, Senior Advocate with
Mr.Rajwant Singh Chahal, Advocate for the petitioner
Mr.Vaibav Narang, Advocate for the respondents

1. *Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
2. *To be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

Impugned in the present revision is the order dated 8.1.2015, passed by the learned Additional Civil Judge, Senior Division, Tarn Taran vide which the objections filed by the JD were dismissed.

Briefly stated, a decree for specific performance was passed in favour of Gulzar Singh plaintiff and against Mangal Singh and Gian Singh through his LRs for specific performance of agreement to sell dated 12.7.2014, executed by the deceased Mangal Singh in favour of the plaintiff regarding 9 kanal of land fully detailed in the head note of the plaint, out of the share of the deceased Mangal Singh from the land which is still joint amongst the

co-sharers. The LR's of Mangal Singh were directed to execute the sale deed in favour of the plaintiff qua the suit land within two months from the date of the judgment 11.2.2013"

During the execution proceedings, Inderjit Kaur one of the LR's of Gian Singh filed the objections, stating that *Khata* is still joint. There was no decree for specific khasra nos., as such, the decree holder is only entitled to symbolic possession and not specific khasra no. It was also stated that khasra No.24//22 (1-0) and 23(8-0) are in possession of the JDs. The lower Court held that the decree was passed regarding these khasra nos. measuring 9 kanals and therefore, the same has to be executed. The objections were dismissed.

I have heard learned counsel for the parties and have also carefully gone through the file.

It comes out that the present petitioner -objector was party to the civil suit, which specifically directed the execution of sale deed regarding 9 kanal of land fully detailed in the head note of the plaint. In the plaint, khasra No.24//22 (1-0) and 23(8-0) out of the total land measuring 145 kanal 4 marla, which is also detailed in the plaint, are mentioned. It was never directed by the Court that sale deed only regarding the share will be executed and the plaintiff will only be delivered the symbolic possession. In the decree, it was however, observed that the entire land is still joint amongst the co-sharers. The present petitioner -objector was appearing before the lower Court and got the opportunity to put forward her case and pray that the decree for symbolic possession only be passed. The land of

said khasra nos. comes to 9 kanals. The executing Court is to faithfully execute the decree. It cannot go behind the decree to hold that the decree meant that it is a decree regarding the share only and only symbolic possession is to be delivered. Therefore, there is nothing wrong in the impugned order, dismissing the objections.

Accordingly, I find no merit in the present revision petition and the same is accordingly dismissed.

However, any observations made above, shall not affect the partition proceedings which may be pending or initiated between the co-sharers.

03.12.2015*gk***(Kuldip Singh)
Judge**