

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CR No.6269 of 2015 (O&M)
Date of decision: 22.09.2015**

Mohinder Singh and another

...Petitioners

versus

Gurmej Singh and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ramesh Sharma, Advocate,
for the petitioners.

RITU BAHRI, J.

Defendant-Judgment Debtors (petitioners herein) have come up in revision against the order dated 29.07.2015, whereby executing Court has accepted the report of the Local Commissioner dated 03.11.2014 and dismissed the objections filed by the Judgement Debtors.

Vide judgment and decree dated 16.08.2010 (Annexure P-1), the suit of the plaintiff-Gurmej Singh and others was decreed to the effect that plaintiff No.1-Gurmej Singh was entitled to separate possession by way of partition of 1/14th share i.e. 3 Marlas 6 sarsai out of the suit land. Similarly, plaintiff-respondent Nos. 2 to 4 and defendant No.11 were entitled to separate possession by way of partition of 1/14 share i.e. 3 Marlas 6 Sarsai.

Pursuant to the aforesaid decree, execution proceedings were initiated by the plaintiffs and a Local Commissioner was appointed for the said purpose. The Local Commissioner submitted his report dated 03.11.2014 (Annexure P-2), relevant portion thereof is reproduced as under:-

“In my view partition of the suit property could be done by carrying out

2 Karam of rasta i.e. 11 feet, towards the Eastern side upto the electric poll and passage so carved out will consume approximately 15 Marlas of land and this 15 Marlas of land can be deducted proportionately from the suit property and area of electric poll i.e. 27'x17'.6" should be left and this can also be deducted proportionately from joint khata.

If the parties are not interested in carving out rasta and without carving out the rasta, partition of the plot is not feasible as the front portion is only 33 feet and being not dividable and is the most valuable portion cannot be partitioned among the co-sharers and it would be better to sale the property amongst the co-sharers after fixing the price."

Objection to the report of the Local Commissioner was made before the executing court by the defendants-judgment debtors. Vide impugned order, the executing Court has observed that the value of the 33 feet front portion of the suit land was much more than the value of the remaining plot behind 33 feet and it was not possible to allocate the front portion to all the co-sharers for its beneficial enjoyment. The best mode of partition would be to first offer the co-sharers to purchase the disputed plot at the market value and then disburse the sale consideration amongst all the other co-sharers. In the absence of such settlement, the suit land can be sold in open auction subject to reservation of a minimum base price. Accordingly, a report has been called from the Collector regarding the collector rate for the said purpose.

Learned counsel for the judgment debtors-petitioners argues that the petitioners are ready to leave 12 karams land/rasta and prayed that auction proceedings should not be carried out. This plea of the judgment debtors-petitioners is devoid of any merit, as the proposal of the present petitioners should be acceptable to all the co-sharers. That is why, the execution Court has firstly given an option to the co-sharers to purchase this land and thereafter, subjected it to open auction.

After going through the impugned order, no illegality, much less

perversity has been found therein warranting interference by this Court in exercise of its revisional jurisdiction.

Dismissed.

(RITU BAHRI)
JUDGE

22.09.2015
ajp