

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

CR No.871 of 2014

Decided on: 21.08.2015

Surjeet Bahadur & others . . . Petitioners

Versus

Lajwanti & others . . . Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Rajinder Aggarwal, Advocate
for the petitioners.

ARUN PALLI, J. (Oral)

Objections preferred by respondents No.1 to 6 i.e. legal representatives of Ramesh Kumar Saini were accepted by the Executing Court vide order dated 07.02.2011 (Annexure P-9). And since appeal preferred against the said order failed and was dismissed by the First Appellate Court vide judgment dated 31.08.2013, petitioners- auction purchasers are before this Court vide the present revision.

Concededly, petitioners had purchased a land measuring 6 kanals 11 marlas in open auction in execution of decree dated 20.04.2002. In the execution proceedings objections were filed by respondents No.1 to 6 that actual physical possession of the area purchased by the petitioners could not be delivered as

the land was a part of a joint land measuring 19 kanals 6 marlas and was yet to be partitioned. On analysis of the matter in issue, the Executing Court accepted the objections and concluded as thus

“In fact as per the jamabandi for the years 2003-04 apart from the objector, even the JD namely Anil Kumar is also a co-sharer with him. There is nothing on record to show that any partition has ever been effected between the original co-sharers till the date when the auction took place. Therefore, only symbolic possession could have been delivered to the Auction purchaser. Symbolic possession has already been delivered as evident from the entries made in the rapat No.183 dated 31.12.2010 and mutation no.728 has already been sanctioned. Hence, the objections of the objector are accepted. No further proceedings are required to be taken. In view of the statement made by Sh. Sudeep Malik, Advocate on 11.12.2010, the present execution is dismissed as withdrawn being fully satisfied. File be consigned to record room after due compliance”

Learned 1st Appellate Court reviewed the matter and vide judgment dated 31.08.2013, dismissed the appeal preferred by the petitioner.

Concededly, the land measuring 6 kanals 11 marlas purchased by the petitioners is a part of joint holding and is yet to be partitioned. Once, this was so, petitioners could not claim actual physical possession of the specific portion i.e. 6 kanals 1 marlas. Even if petitioners have purchased a part of the joint holding they

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would step into the shoes of their vendor. If the property was joint, it would remain so till it is partitioned. And in the absence of any partition, petitioners cannot claim possession of any specific portion.

4. Learned counsel for the petitioners could not be pointed out as to how the findings that were concurrently recorded by both the Courts were either contrary to the position on record or suffered from any material illegality.

That being so, no interference is warranted, in exercise of revisional jurisdiction under Article 227 of the Constitution of India. Petition being devoid of merit is accordingly dismissed.

[ARUN PALLI]
JUDGE

21.08.2015
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Referred to Reporter