

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No.221 of 2016 (O&M)
Date of Decision.14.01.2016

Sukhnandan Singh

.....Petitioner

Vs.

Gurmej Singh and others

.....Respondents

Present: Mr. Sandeep Arora, Advocat
for the petitioner.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers 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?

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K. KANNAN J. (ORAL)

1. The revision petition is against the order passed by the Civil Judge directing a sale of the property. This direction has come in application for passing a final decree. There is a serious error in the procedure which would require to be corrected and I do not think any further time must be wasted by the Court by ordering notice to the other side.

2. A preliminary decree for partition cannot be acted on without further directions for identifying the mode of division. In an application for passing a final decree if the Court has adopted the procedure of appointing a commissioner, after hearing the objections on the commissioner's report, the Court must pass an order disposing of the application for passing a final decree. It is that decree which will be a subject of appeal. The Court cannot pass an order directing a sale of the property without making it a part of the disposal of the application

for passing a final decree.

3. The order already passed is set aside and the Court is directed to pass an order allowing for final decree to be passed either by way of division of the property in the manner suggested by the commissioner or for a direction for sale of the property. A final decree must be prepared on such an order which will be an appealable order. The order already passed brings in a procedural flaw which is serious that may affect the rights of any party who may show interest in purchasing the property even as per the Court's order.

4. The impugned order is set aside and remitted to the Court below for passing appropriate orders in accordance with law. The revision petition is disposed of.

(K. KANNAN)
JUDGE

January 14, 2016
Pankaj*