

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 8531 of 2015 (O&M)

Date of Decision: 02.03.2016

Prem and Others

... Petitioner(s)

Versus

Parkash and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Shekher Dhawan.

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| 1. | Whether reporters of local newspapers may be allowed to see judgment? | Yes |
| 2 | To be referred to reporters or not? | |
| 3 | Whether the judgment should be reported in the Digest? | Yes |

Present: Mr. Parshant Bansal, Advocate
for the petitioner(s).

Mr. Nand Lal Sammi, Advocate
for respondents No.1, 2 & 5 to 8.

Shekher Dhawan, J.

Present petition is challenge to the order dated 18.9.2015, passed by learned Civil Judge (Junior Division), Rajpura, whereby objections, filed by the present petitioner/defendants No.1, 2, 4, 5 & 8 on the report of Local Commissioner, were dismissed.

Relevant facts of the case that civil suit, at the instance of plaintiff/respondents No.1 & 2 for possession by way of partition was decided and the same was decreed by the Court below vide order dated

3.8.2011 and all the parties to the litigation were held to be entitled to 1/5th share of the property in dispute. Petition for passing of final judgment & decree was filed by plaintiff/respondents No.1 & 2 and at that stage, Kulbhusan Aggarwal, Advocate, Rajpura was appointed as Local Commissioner with the direction to partition the suit property in terms of preliminary decree. The Local Commissioner, after visiting the spot, submitted his report dated 10.4.2015 suggesting mode of partition. Present petitioners moved objection petition and the Court below, after considering the same and reply having been filed by plaintiff/respondents No.1 & 2, dismissed the objection petition vide impugned order and present petition is challenge to the same.

Learned counsel for the petitioners mainly submitted that property which was in possession of Kartara should have been given to the present petitioners because the same is adjacent to their property.

Learned counsel for respondents No.1, 2 & 5 to 8 submitted that no such plea was raised at the time of visit of Local Commissioner, though petitioners were present at the spot. Now present petition has been filed just to delay the execution proceedings as the warrants of possession have already been issued and even objections against the report of Local Commissioner have been disposed of.

Having considered the submissions made by learned counsel for the parties, this Court is of the considered view that the Court below has already considered the detailed report of Local Commissioner along with the reasons for suggesting the proposed partition amongst the parties and there is no ground to set aside the

said order. Merely saying that the adjoining land should have been given to the present petitioners is no ground for setting aside the said order. Local Commissioner, in his report (Annexure P1) has dealt with every aspect while making reference to standing trees on the site that the standing trees shall come to the share of the owner on whose property the same are standing. As regard to construction of two rooms (R1 & R2), liberty was given to the present petitioners to remove the material of those two rooms and at that stage, present petitioner No.1 Prem also agreed to that. There is absolutely no ground to interfere with the order passed by the Court below and present petition is dismissed being devoid of any merit.

(Shekher Dhawan)
Judge

March 02, 2016
"DK"