

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

ESA-42-2015 (O&M)

Date of decision: 03.04.2018

Ram Kishan alias Kishan Lal and another

.....Appellants

versus

Bishan Dayal and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldeep Singh

Present: Mr.Sudhanshu Makkar, Advocate for the appellants
Mr.Kunal Mulwani, Advocate for respondent no.1

- 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?*

Kuldeep Singh, J. (Oral)

Impugned in the present appeal is the order dated 30.5.2015, passed by learned Additional District Judge, Bhiwani, vide which, the order dated 22.3.2013, passed by the Executing Court was set aside.

It comes out that the execution was pending before the learned Additional Civil Judge (Senior Division), Loharu for executing the final decree. By the order dated 22.3.2013, learned Additional Civil Judge (Senior Division), Loharu dismissed the execution on the ground that neither the decree holder nor the JDs are giving suggestions. The said order was set aside by learned Additional District Judge, Bhiwani vide order dated 30.5.2015.

I am of the view that once the final decree has been passed and its execution being sought and thereafter, the report of the Local Commissioner appointed by the Court is received, the Executing Court was

not justified in saying that the parties are not giving any suggestions. Local Commissioner has already suggested the mode of partition and it was for the Court to accept or reject that mode of partition. Executing Court was to faithfully execute the decree and carry out the final decree. Therefore, there is no illegality or infirmity in the order dated 13.5.2015 passed by learned Additional District Judge, Bhiwani, directing the Executing Court to execute the final decree.

Resultantly, the present appeal stands dismissed.

Since the main case has been dismissed, therefore, the pending CM, if any, also stands disposed of.

03.04.2018

gk

**(Kuldip Singh)
Judge**

Whether speaking/ reasoned:

Yes

Whether Reportable:

No