

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

**ESA 73-2017 (O&M)
Date of decision: 09.01.2018**

Ram Narain (deceased) through LRs and others

.....Petitioners

versus

Samunder Singh Maan

.....Respondent

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Ashsih Aggarwal, Senior Advocate with
Mr.Govind Chauhan, Advocate for the appellants

- 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?*

Kuldip Singh, J. (Oral)

Impugned in the present appeal is the order dated 10.9.2013, passed by learned Additional Civil Judge (Senior Division), Bahadurgarh, whereby in an Execution petition filed under Order 21 Rule 11 and 32 read with Section 151 CPC , learned Additional Civil Judge (Senior Division), Bahadurgarh allowed the execution petition and appointed Shri Shankar Babbar, Copyst to the Court as Local Commissioner to execute the sale deed regarding 49/52 share of the JDs No.1 to 6 in 56 kanals 3 marlas land as reflected in the mutation no.3080 of register of Intkal of village Kassar. Appeal filed by the present appellant was dismissed by learned Additional District Judge, Jhajjar vide order dated 9.11.2017 with the observations that the executing court can proceed with the execution as per law even by granting police help to the decree holder.

I have heard learned counsel for the appellant.

Grouse of learned counsel for the appellant is that learned Additional District Judge, has recorded the finding that partition was there and by way of police help the actual possession will be delivered. The argument is devoid of any merit. Learned Additional District Judge merely dismissed the appeal by making observation that even the police help can be granted. The said observation means that if the executing Court feels that the police help is required, it can grant police help. Even without those observations the executing Court can always execute the decree with the police help. In this case, in a suit for specific performance, a decree was passed against defendant nos.1 to 6 to execute the sale deed regarding suit property regarding their share only as per revenue record on receiving balance sale consideration in view of the agreement to sell dated 25.2.2005. Executing Court has merely ordered the execution of the sale deed of the share. No order has been passed that actual possession is to be delivered.

It being so, there is no illegality or infirmity in the order passed by the Executing Court as affirmed by learned Additional District Judge, Jhajjar. The appeal is found to be without any merit and is dismissed. However, the decree has to be executed only regarding share in terms of the decree qua defendant nos.1 to 6 only.

09.01.2018*gk***(Kuldip Singh)
Judge**

Whether speaking/ reasoned:

Yes

Whether Reportable:

No