

It comes out that a decree for specific performance was passed against Jasbir Singh and Mohinder Singh, sons of Gurdev Singh regarding disputed property which was with specific boundaries. Now, the said decree is being executed. Present petitioner, namely, Parminder Kaur, who also happens to be legal heir of Jasbir Singh now deceased (defendant), filed the objections stating that property was ancestral and coparcenary property and could not be sold by Jasbir Singh. The said objections did not prevail before the Executing Court nor before the first appellate Court.

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I am of the view that present petitioner has come through Jasbir Singh (defendant), on whom the decree is binding. Even if, it is assumed that present petitioner is coming in independent capacity that said suit property is ancestral and coparcenary property, even then the sale of property in the execution is deemed to be legal necessity and is permissible even under the Hindu Law. Therefore, objections were rightly dismissed by both the Courts below.

The learned counsel for petitioner states that in the decree, share was mentioned and that he wants to file proceedings for partition of the property.

I am of the view that if some right is available to present petitioner, she can always avail the same without any order from this Court.

Consequently, appeal is dismissed. Since main case has been dismissed, therefore, pending application, if any, also stands disposed of.

(KULDIP SINGH)
JUDGE

27.3.2018
sjks

Whether speaking / reasoned : Yes / No

Whether Reportable : Yes / No