

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

118

RA-CR-175-CII-2017 in
CR No.5747 of 2017

Date of decision: 23.01.2018

Preeti Gupta and another

..... Petitioners

Versus

Agya Kaur and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Baljinder Singh, Advocate
for the applicants-petitioners.

ANIL KSHETARPAL, J. (ORAL)

Through this application, petitioners are seeking review of order dated 01.09.2017.

Learned counsel for the petitioners has submitted while relying upon Order 21 Rule 101, CPC that all issues arising from resistance or obstruction in the delivery of possession of immovable property are to be adjudicated upon in the execution petition only. He has further submitted that a separate suit for partition would not be maintainable.

This Court has considered the submission. However, do not find any substance therein. In the present case, petitioners are the auction purchasers. They purchased the land in a Court auction measuring 1 bigha out of the land comprised in Khasra No.180/23 having total area of 8 bighas and 8 biswas. When the possession was to be delivered, petitioners-auction purchasers themselves identified the property with the help of the revenue

official and possession was delivered. This Court has observed that while deciding the revision petition on 01.09.2017 only a small portion of the big khasra number has been purchased and the proper remedy available for the petitioners is to seek the partition of the property. In the considered opinion of this Court, Order 21 Rule 101 would have no application in such circumstances. Dispute in the present case is whether the possession as delivered by the Court on the identification of the petitioners is correct or not. Once the property purchased in part of a bigger khasra number, then the appropriate remedy for the petitioners is to seek the partition.

The argument of learned counsel for the petitioners is that the separate suit would not be maintainable is wholly misplaced as Order 21 Rule 101 deals with an entirely different situation.

In view thereof, there is no ground to review the order dated 01.09.2017.

Review application is dismissed.

23.01.2018
Dinesh Bansal

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned	Yes / No
Whether Reportable	Yes / No