

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No. 110

Case No. : C. R. No. 2669 of 2018

Date of Decision : August 19, 2019

Harnek Singh (since deceased) through his LR's and others		Petitioners
vs.		
Jangir Singh and others		Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

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Present : Mr. Kamaldip Singh Sidhu, Advocate
for the petitioners.

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DEEPAK SIBAL, J. (Oral) :

The present petition is directed against the order dated 13.09.2017 passed by Additional Civil Judge (Senior Division), Nihal Singh Wala, District Moga (for short – the Trial Court), through which, after accepting the report of the Local Commissioner dated 19.07.2017, directions have been issued for passing of final decree.

After hearing learned counsel for the petitioners and perusing the record of the case, the facts, in brief, which have been culled out, are that in a suit for partition preferred by respondents no. 1 and 2, a preliminary decree dated 12.08.2008 was passed by the Civil Judge (Junior Division), Moga, which in appeal filed by the petitioners, was modified by the Additional District Judge, Moga (for short – the Appellate Court). The

order of the Appellate Court was sustained by this Court on the dismissal of the Regular Second Appeal filed by the petitioners against such order being **RSA No. 4455 of 2011 – Harnek Singh and others vs. Jangir Singh and others.**

While the above matter with regard to challenge to the preliminary decree was pending, respondents no. 1 and 2 filed an application before the Trial Court seeking passing of the final decree of partition. In the proceedings which ensued, the Trial Court appointed various Local Commissioners but on one pretext or the other, their reports were not accepted.

Finally, a revenue official – Naib Tehsildar Baldev Singh was appointed as the Local Commissioner to inspect the site, draw a site plan and suggest a mode of partition. After inspecting the site, the said Baldev Singh filed his report on 19.07.2017, to which, both parties expressed their agreement on not one but two occasions i.e. on 07.09.2017 and 13.09.2017. Further, a statement was made by learned counsel appearing on behalf of petitioners no. 1, 2 and 4 that they had no objection to the aforesaid report dated 19.07.2017 by Baldev Singh and to the mode of partition suggested therein.

In view of the above, there is no reason to interfere with the order passed by the Trial Court directing passing of the final decree on the basis of the aforesaid report of the Local Commissioner dated 19.07.2017, especially when the aforesaid agreement expressed by the learned counsel

for the parties to the same is not even disputed before this Court, no written objections to such report were filed and that the report of the Local Commissioner dated 19.07.2017 is in consonance with the preliminary decree which had attained finality.

Dismissed.

(DEEPAK SIBAL)
JUDGE

August 19, 2019
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<i>Whether speaking/reasoned ?</i>	<i>Yes/No.</i>
<i>Whether reportable ?</i>	<i>Yes/No.</i>