

CR-3636-2017 (O&M)

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

CR-3636-2017 (O&M)

Date of decision : 27.03.2019

Pushpa and another

... Petitioner

Versus

Joginder Pal and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. A.S. Syan, Advocate
for the petitioner.

Mr. Munish Garg, Advocate
for respondent No.1.

AMIT RAWAL, J. (ORAL)

The present revision petition is directed against the impugned order, whereby the application of the petitioner for execution of the final decree, which was already passed, on the basis of compromise, has been dismissed, on technical ground that the parentage of respondent No.2 has incorrectly been mentioned as Jagdish Lal son of Moti Ram, whereas in the preliminary decree, it was Jagdish Lal son of Ram Lal son of Moti Ram.

Learned counsel for the petitioner submitted that the Executing Court is the same, therefore, should have accepted the oral request of the petitioner for amendment of the final decree as per Section 47 of the Code of Civil Procedure.

Learned counsel for the respondent has no objection for correction of the amended decree, provided that the application is filed.

Keeping in view the aforementioned facts, I am of the view that

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since the revision petition is filed by the co-plaintiff Nos.3 and 4 and not plaintiff No.1, who preferred the execution application, in a suit for partition, all the co-owners are the plaintiffs as well as the defendants and one of the co-owner can espouse the cause on behalf of another co-owner. It would be too farcical exercise to relegate the petitioner to do the same. Since the Executing Court is the Successor Court, therefore, should have ordered for the amendment of the decree as the final decree was, on the basis of the compromise. Be that as it may, since there is no dispute with regard to the parentage, the final decree dated 26.10.2010 is corrected and the parentage of Jagdish Lal shall be as per the preliminary decree i.e. 30.09.2006. In such circumstances, the execution application is ordered to be revived and the trial Court shall proceed further, in accordance with law.

With the aforesaid observations, the present revision petition stands disposed of.

27.03.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**