

CR-6987-2015 (O&M)

203

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

CR-6987-2015 (O&M)

Date of decision : 06.02.2019

Jugal Kishore

... Petitioner

Versus

Bimal Kishore and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Sushil Kumar Verma, Advocate
for the petitioner.

Mr. Arpandeeep Narula, Advocate
for respondent Nos.2 to 7.

AMIT RAWAL, J. (ORAL)

The present revision petition is directed against the impugned order dated 07.08.2015, whereby in an execution application pending for implementation of the final decree of partition, the decree holder had undertaken to execute the sale deed in respect of his share in favour of judgment debtor Nos.2 to 7 within a period of week, failing which, judgment debtors were given liberty to execute the sale deed in accordance with law.

Learned counsel for the petitioner submitted that petitioner-judgment debtor No.1 had submitted an application by invoking the provisions of Section 3 of the Indian Partition Act to buy back the share by giving better offer to the decree holder than the one given by the judgment debtor Nos.2 to 7. The Court below while noticing the statement of the decree holder and judgment debtor Nos.2 to 7, disposed of the execution application and rendered the application infructuous. In support of his

CR-6987-2015 (O&M)

contentions, reliance has been laid to the *ratio decidendi* culled out by Hon'ble the Supreme Court in **"R. Ramamurthi Aiyar (Dead) by LRs V/s Raja V. Rajeshwararao" 1973 AIR (SC) 643**, to contend that inter se bidding is required to be done between the co-sharers in order to prevent the parties in letting it go to the third party.

Learned counsel for the respondent submitted that the impugned order has been complied with and judgment debtor Nos.2 to 7 had already paid the money and the sale deed has been executed.

I have heard learned counsel for the parties, appraised the paper book and of the view that the provisions of Section 3 of the Indian Partition Act and the *ratio decidendi* culled out in the judgment cited supra are no longer *res intera*. The whole idea of the legislature is not to let the property go outside the family, in case, all the co-sharers are of decedents of common ancestor. Be that as it may, judgment debtor No.1/petitioner, cannot be permitted to burgeon his offer, when decree holder had voluntarily agreed to sell his share to judgment debtor Nos.2 to 7, which is already implemented.

Keeping in view the aforementioned facts and circumstances, I do not find any illegality and perversity in the impugned order, much less, no ground is made out for interference. Accordingly, the present revision petition is dismissed.

06.02.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**