

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR- 8021-2016

Date of Decision : 04.12.2019

Kanwar Singh and anotherPetitioners

VERSUS

Mangtu (deceased) through LRs and others..... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

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Present: Mr. Jai Vir Yadav, Advocate
for the petitioners.

Mr. S.K.Yadav, Advocate
for respondent No.1(c).

Mr. Aditya Yadav, Advocate
for respondent No.2.

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MANJARI NEHRU KAUL, J.

Challenge in the instant revision petition is to the order dated 20.10.2016 passed by the learned Additional Civil Judge (Sr. Divn.), Kanina, whereby a Local Commissioner has again been appointed and directed to partition the land as per the directions given in the impugned order.

Learned counsel for the petitioners has contended that the impugned order is contrary to the directions given by the learned Additional District Judge, Narnaul, vide judgment and decree dated 19.08.2009 (Annexure P2). However, a perusal of the impugned order shows that objections had been taken by various judgment debtors to the report dated

a Local Commissioner.

It goes without saying that if a party takes in his possession any portion of land without getting the same partitioned and against the will of the other co-sharers, it does so at his own peril and possession cannot be made a ground for adding the said portion to his share. During the pendency of the suit, as per the report of the Local Commissioner, the said land was lying vacant in the year 1995. Thus, it is abundantly clear that the construction on the land was raised by the parties to the suit subsequently with the sole intention to take undue advantage of the partition proceedings. They have done so at their own risk. They cannot be thus held entitled for the grant of share of the said land. The shortcomings in the earlier report dated 05.08.2015 of the Local Commissioner are very apparent and hence there is no bar that in view of the same another Local Commissioner cannot be appointed.

In view of the above, this revision petition is dismissed.

(MANJARI NEHRU KAUL)
JUDGE

04.12.2019

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Whether speaking/reasoned
Whether Reportable:

Yes / No
Yes / No