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

CR No. 8296 of 2018

Date of Decision:11.07.2019

Sudhir Tandon

-Petitioner

Vs

Vinay Gandhi and another

-Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. S.S. Panag, Advocate
for the petitioner.

Mr. Kushagra Mahajan, Advocate
for the respondent.

RAJ MOHAN SINGH, J. (ORAL)

1. Petitioner has assailed the orders dated 28.08.2018 and 05.11.2018 passed by the Civil Judge (Junior Division), Amritsar.

2. The controversy involved herein is in respect of partition of a dwelling unit. Civil suit for separate possession by way of partition was decreed, vide judgment and decree dated 16.11.2013. The said decree was upheld in appeal on 17.10.2014. An application was filed for drawing the final decree. Local Commissioner was appointed who had given his report regarding impartible nature of the property. Thereafter,

the Court proceeded to fix the schedule of auction of property and sale warrants were issued, according to the schedule fixed by the Court.

3. Petitioner has filed an application under Section 3 of the Partition Act on the ground that he being a co-sharer has a preferential right to purchase the property in question.

4. Without deciding the said application, trial Court proceeded to issue auction schedule despite the fact that notice had already been issued in the application. The trial Court ought not to have proceeded with the auction schedule.

5. In view of the facts and circumstances, I deem it appropriate to set aside the impugned orders and remand the case back to the trial Court to pass an appropriate order on the application filed by the petitioner under Section 3 of the Partition Act. Till then the proposed auction shall remain in abeyance.

6. In view of aforesaid, this revision petition is disposed of.

11.07.2019
rakesh

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No

2. Whether reportable : Yes/No