

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

**CR No.6012 of 2019(O&M)
Date of Decision: 23.09.2019**

**Deep Chand (now deceased) through his LRs
.....Petitioners**

Versus

**Azad Singh (now deceased) through his LRs and others
.....Respondents**

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present:Mr. M.S. Saini, Advocate
for the petitioners.

RAJ MOHAN SINGH, J.

[1]. Petitioners being LRs of Deep Chand have laid challenge to the order dated 03.09.2019 passed by Civil Judge (Junior Division), Bahadurgarh, vide which objections filed by the petitioners under Section 47 CPC were dismissed.

[2]. Perusal of the record would show that a preliminary decree was drawn thereby ascertaining the entitlements/shares of the parties. An application for drawing final decree was filed. A Local Commissioner was appointed who gave his report. Report was not found to be correct and thereafter, the Local

Commissioner was again asked to file fresh report. Local Commissioner suggested mode of partition on 15.09.2017 by filing fresh report.

[3]. No objections were filed by the petitioners to the report of Local Commissioner, rather learned counsel for the petitioners pleaded no objection to the report of Local Commissioner. Final decree has been drawn. Petitioners have not assailed the decree in any Forum except to file objections in the execution that some Panchayat land has been allotted to them.

[4]. In the absence of any objection to the report of Local Commissioner suggesting mode of partition, no such plea can be appreciated by the executing Court as the executing Court cannot go beyond the decree. Parties were found to be having defined shares in the property. Plaintiffs were held entitled to get their shares separated by way of partition. Defendant No.2 despite service did not appear. He was proceeded against *ex parte*. Deep Chand through his LRs appeared before the trial Court. Local Commissioner i.e. Sh. M.S. Verma, Advocate suggested mode of partition in his report dated 07.07.2017. However, the said report was subsequently corrected and a new report dated 15.09.2017 was filed, wherein total suit property was shown to be 1957 sq. yards. Plaintiffs, defendant Nos.1 and

2 were held entitled to land measuring 652 sq. yards each in the suggested mode of partition. The entitlements of the parties were duly shown in the correct report of the Local Commissioner, to which, no objections were filed, rather learned counsel for the petitioners showed no objection to the said report.

[5]. Executing Court is not supposed to go beyond the decree under execution. Petitioners have not assailed the final decree in any appeal till date.

[6]. In view of above, impugned order is not found to have suffered with any error of jurisdiction. This revision petition is accordingly dismissed.

23.09.2019

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**(RAJ MOHAN SINGH)
JUDGE**

Whether reasoned/speaking Yes/No

Whether reportable Yes/No