

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

CR-2388-2020(O&M)

Date of decision: 03.12.2020

Jarnail Singh

.....Petitioner

Versus

Piara Singh and others

.....Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr.Bhupinder Ghai, Advocate for the petitioner

Mr. K.S.Brar, Advocate for the respondents

ANIL KSHETARPAL, J. (ORAL)

On 27.10.2020, while noticing the contentions of the learned counsel for the petitioner, the following order was passed by this Court:-

“The petitioner has filed the revision petition under Article 227 of the Constitution of India read with Section 115 of CPC seeking setting aside of the order dated 24.02.2020 passed by the learned Executing Court.

The petitioner/plaintiff filed a suit for specific performance of the agreement to sell dated 12.11.2008 with respect to land measuring 44 marlas from a undivided share in a joint khata. The aforesaid suit was decreed and transfers of the land by defendant No.1, in favour of defendant No. 2 and 3, were set aside. In an appeal filed, the learned Appellate Court held that the transfers of the disputed property after execution of the agreement to sell dated 12.11.2008 shall not affect the rights of the plaintiff. The aforesaid judgment passed by the learned First Appellate Court has been upheld in the Regular Second Appeal. During the pendency of the first appeal, the sale deed with respect to land measuring 44 marlas was executed in favour of the petitioner by the executing court.

Learned counsel for the petitioner contends that the petitioner as well as defendant No. 2 and 3 have been transferred undivided share in the joint khata and as per the

judgment passed by the learned First Appellate Court, the rights of the plaintiff qua land measuring 44 marlas would not be adversely affected because of transfer of the land by separate transfer deeds executed by defendant No.1. He contends that the learned Executing Court has erred while returning a finding that the land measuring 1 kanal (20 marlas) shall stand deleted from the sale deed executed in favour of the petitioner.

Notice of motion for 25.11.2020.

Dasti also.”

It is not in dispute that partition proceedings are pending between the parties for dividing the joint property.

Learned counsel appearing for the respondents submits that the rights of the respondents qua 45 marlas be ordered to be protected.

In the considered view of this Court that aspect can only be looked into at the time of partition.

In view of the aforesaid, impugned order is modified to the extent as noticed in the order dated 27.10.2020 which is made absolute.

The revision petition stands disposed of.

03.12.2020
rekha

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No