

CR-6783-2019(O&M) 1

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-6783-2019(O&M)
Date of decision: 18.02.2020

Urmila Rattan and another

.....Petitioners

Versus

Manohar Lal Rattan now deceased through his LRs and ors

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr.Sanjiv Gupta, Advocate for the petitioners

Ms. Monita Mehta, Advocate for the respondents

ANIL KSHETARPAL, J. (ORAL)

Present revision petition is arising from an order passed by Executing Court in the proceedings for preparation of final decree of partition. Learned Executing Court had directed that joint property be sold and proceeds thereof be apportioned. The petitioners herein were held entitled to 1/3rd share whereas respondents herein were held entitled to 2/3rd share.

On 29.10.2019 while noticing the contention of the learned counsel for the petitioners, following order was passed:-

“Learned counsel for the petitioners on instructions from the petitioners submitted that the petitioners have no objection if 2/3rd share belonging to the respondents is sold and they be allowed to continue staying in 1/3rd of

the share which is in their occupation.

Notice of motion for 08.01.2020.

Dispossession is stayed subject to the petitioners shifting into the portion ear marked by the Local Commissioner qua them.”

Thereafter, on 10.1.2020 with the consent of the learned counsel for the parties, following order was passed:-

“There is a decree for partition of the joint property (constructed building). The petitioners herein have been held entitled to 1/3rd share, whereas the respondents herein have been held entitled to 2/3rd share. On 29th October 2019, learned counsel for the petitioners contended as under:

“Learned counsel for the petitioners on instructions from petitioners submitted that the petitioners have no objection if 2/3rd share belonging to the respondents is sold and they be allowed to continue staying in 1/3rd of the share which is in their occupation.

Notice of motion for 08.01.2020.

Dispossession is stayed subject to the petitioners shifting into the portion ear marked by the Local Commissioner qua them”.

On 08.01.2020, learned counsel appearing for the respondents made a statement that the respondents have no objection, if the offer made in the order dated 29th October 2019 is accepted, provided the petitioners vacate 2/3rd share of the property. It was further agreed between the parties that the respondents would be entitled to withdraw Rs.25

lacs deposited by the respondents.

Keeping in view the consensus arrived at, parties were requested to verify the aforesaid facts and comply with the statements made by their respective counsels and file affidavits.

On the one hand, petitioner No.1 has filed affidavit that she and her daughter (who is petitioner No.2) has already vacated 2/3rd portion of the disputed property. On the other hand, learned counsel appearing for the respondents disputes the correctness of the statement made.

Keeping in view the short controversy involved, learned Executing Court is requested to appoint a Senior Counsel of the District Court, Patiala to accompany Mr. Rakesh Ranchan, who was appointed as Local Commissioner to visit the premises and report about correct situation. The Court is requested to impress upon the counsel, to be appointed as a Local Commissioner, to go to the spot and make an endeavour to settle the small dispute, if any, between the parties.

Adjourned to 18.02.2020.

Learned Executing Court is requested to send report within a period of one month from the date of receipt of copy the order. The charges for the

Local Commissioner shall be borne by the respondents.

To be shown in urgent list.”

A report from the Additional Civil Judge, Senior Division-cum-Chief Judicial Magistrate, Patiala has also been received.

Learned counsel for the parties have jointly informed the Court that possession of 2/3rd share has been handed over to the respondents and they do not now wish to proceed with the matter. Learned counsel for the respondents submits that the respondents have deposited a sum of Rs.25 lacs which should be permitted to withdrawn.

Learned counsel for the petitioners has no objection thereto.

Keeping in view the aforesaid facts, present petition is disposed of in view of the consensus arrived at. Respondents would be at liberty to withdraw the amount of Rs.25 lacs deposited by them in the Executing Court.

Disposed of.

18.02.2020

rekha

Whether speaking/reasoned

Whether Reportable

(ANIL KSHETARPAL)

JUDGE

Yes / No

Yes / No