

Sr. No. 110

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-2647-2021

Date of decision: 12.11.2021

Har Bhagwan

...Petitioner

Vs.

Des Raj and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Rakesh Dhiman, Advocate,
for the petitioner.

ARUN MONGA, J. (ORAL)

Petition herein, under Article 227 of Constitution of India is for setting aside the impugned order dated 18.08.2021 passed by learned Civil Judge (Jr. Division) Pataudi, District Gurugram whereby an application moved by defendants/respondents has been allowed and a local commissioner has been appointed.

2. I have heard learned counsel for the petitioner and gone through the case file.

3. No interference is called for in the order assailed herein, which is premised, *inter alia*, on the following reasoning:

“I have heard the learned counsel for both the parties and perused the case file carefully. Perusal of preliminary decree dated 09.09.2014 shows that the plaintiff was given ½ share in property No.1 and 1/4th share in property No.2. A local commissioner was appointed to suggest the mode of partition. Perusal of report of the Local Commissioner placed on file shows that in his report he has stated that the portion which is shown with letter ABML be given to the plaintiff. Perusal of his report shows that he has joined the shares of the plaintiff of the property No.1 and No.2 and has suggested that the portion shown AMBL be given to the plaintiff. But as per the preliminary decree, plaintiff has ½ share in property No.1 and ¼ share in property 2. He has title in both the properties only to the extent of his share in each property. So if the plaintiff is

given portion shown with red colour marked with letter 'AMBL' then it will amount to giving possession on the portion on which he has no title, which is not permissible. Hence, the objections are admitted and interest of justice, requires that a fresh local commissioner be appointed in this case to suggest the mode of partition as per the shares of parties in the each property. Hence, Sh. Paramveer Yadav is appointed Local Commissioner in this case. He will suggest the mode of partition as per the share of the parties in the suit property. His fee is assessed to be Rs.3000/- to be paid by the objectors/respondents/defendants. The LC is directed to visit the spot after due notice to both the parties and both the parties are directed to remain present on the spot. The Local Commissioner is at liberty to seek assistance of any document, if required, from the case file and to submit his report on or before the date fixed. Necessary parvana be issued."

4. A perusal of above leaves no manner of doubt that there is no irregularity either in facts or in law, so as to exercise extraordinary revisional jurisdiction vested with this court.

5. There is no room for interference in the aforesaid valid reasons recorded by the trial Court, with which I am in agreement with.

6. Dismissed.

12.11.2021
vandana

(ARUN MONGA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No