

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

118

CR-7717-2019

Date of decision: 02.12.2022

BABU RAM (DECEASED) THROUGH LRs AND ORS ..Petitioners

Versus

RANJIT SINGH @ JIT SINGH AND OTHERS ..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ravindra Jain, Advocate
 for the petitioner.

 Mr. Saksham Mahajan, Advocate
 for respondents.

ANIL KSHETARPAL, J(Oral)

While invoking the jurisdiction of the Court under Article 227 of the Constitution of India, the petitioners assail the correctness of the order dated 05.12.2018. In substance, Civil Judge (Junior Division), Rupnagar, has amended the preliminary decree dated 24.12.2005 in the partition proceedings. The preliminary decree was passed originally on 24.12.2005. The first appeal as well as the second appeal were dismissed. However, it came to the notice of the Court that the joint property between the parties comprised in Khasra No.112 and 115 has not been included in the said decree. In fact, on 07.05.1969, the Director Consolidation of Holdings passed an order declaring that the property comprised in Khasra No.112 and 115 is joint between the parties, however, the necessary corrections in the revenue record were not carried out. In these circumstances, the preliminary decree has been ordered to be amended.

This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

In view of the judgment passed by the Supreme Court in **Prema Vs. Nanje Gowda and others (2011) 6 SCC 462**, there is hardly any dispute with regard to enabling power of the Court to amend the preliminary decree even after its confirmation by the First Appellate Court and High Court.

Para 16 of the judgment reads as under:-

“16. We may add that by virtue of the preliminary decree passed by the trial Court, which was confirmed by the lower appellate Court and the High Court, the issues decided therein will be deemed to have become final but as the partition suit is required to be decided in stages, the same can be regarded as fully and completely decided only when the final decree is passed. If in the interregnum any party to the partition suit dies, then his/her share is required to be allotted to the surviving parties and this can be done in the final decree proceedings. Likewise, if law governing the parties is amended before conclusion of the final decree proceedings, the party benefited by such amendment can make a request to the Court to take cognizance of the amendment and give effect to the same. If the rights of the parties to the suit change due to other reasons, the Court ceased with the final decree proceedings is not only entitled but is duty bound to take notice of such change and pass appropriate order.”

The learned counsel representing the petitioner does not dispute that the order dated 07.05.1969 has become final between the parties.

In view of the aforesaid facts, no ground to interfere is made out.

Dismissed.

All the pending miscellaneous applications, if any, are also disposed of.

December 02nd, 2022

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**(ANIL KSHETARPAL)
JUDGE**

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