

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 6556 of 2019 (O&M)

Date of Decision: 13.05.2022

Veerpal Kaur

... Petitioner(s)

Versus

Paramjit Singh and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr.C.M.Munjal , Advocate
for the petitioner(s).

Mr. Vikram Bali, Advocate
for the respondent No.1.

Mr. Sukhdeep Singh, Advocate.

Anil Kshetarpal, J.

1. The plaintiff assails the correctness of the order passed by the trial Court appointing the Local Commissioner to suggest a mode of physical partition of the joint property.

2. Heard the learned counsel representing the parties, at length and with their able assistance, perused the paper-book.

3. The learned counsel representing the petitioner contends that in the absence of a preliminary decree, no proceeding for the preparation of the final decree can be undertaken by the Court. He submits that the Court has failed to notice that no preliminary decree has been passed.

4. The plaintiff, while filing the suit, has claimed that she is entitled to half of the share in the house in question. She further claims that

the property is joint between the parties, which means the nature of the

property is joint property. The Civil Court, vide judgment dated 09.09.2017, declared that the plaintiff is entitled to half share of the house in question, whereas the remaining half share belongs to the defendant No.1. The operative part of the judgment reads as under:-

“25. In view of my findings on the above issues, the suit of the plaintiff stands partly decree to the extent that she is owner in possession of ½ share in the house in question whereas counter claim filed by the defendant No.1 is hereby decreed to the effect that he is owner in separate possession to the extent of ½ share in house in question. Parties are left to bear their own costs. Decree sheet be prepared. File be indexed and be consigned to the record room”.

5. Undoubtedly, the trial Court has failed to specifically observe that a preliminary decree for partition is being passed. However, in substance, the trial Court has determined *inter se* respective shares of the parties as is the requirement for passing a preliminary decree for partition.

6. Keeping in view the aforesaid facts, it is declared that the judgment dated 09.09.2017 shall be deemed to include a preliminary decree.

7. With the observations made above, the present revision petition is disposed of.

8. The miscellaneous application(s) pending, if any, shall also stand disposed of.

(Anil Kshetarpal)
Judge

May 13, 2022
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No