

CR-5315-2022

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

CR-5315-2022

Date of Decision: November 18, 2022

Sukhwinder Kaur alias Seema

...Petitioner

Versus

Avtar Singh Bhandari and another

...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Pritam Singh Saini and Mr. Abhishek Goel, Advocates
for the petitioner.

DEEPAK GUPTA, J.(Oral)

Preliminary decree in favour of the petitioner-decree holder was passed by way back on 14.08.2018. Petitioner then moved an application for passing of final decree. Instead of taking necessary steps eg. seeking mode of partition and proceeding further, Ld. Executing Court proceeded to frame the issues by way of impugned order dated 13.07.2022 (Annexure P-1) and to adjourn the case for evidence.

The said procedure adopted by Ld. Executing Court is assailed by way of this revision.

Learned Counsel has rightly placed reliance upon the judgment of ***“Kattukandi Edathil Krishnan & Anr. vs Kattukandi Edathil Valsan and Ors.”*** in Civil Appeal Nos.6406-6407 of 2010 dated 13.06.2022, wherein it has been held by the Hon'ble Supreme Court as under:-

“We are of the view that once a preliminary decree is passed by the Trial Court, the court should proceed with the case for drawing up the final decree suo motu. After passing the preliminary decree, the Trial Court has to list the matter for taking steps under Order XX Rule 18 of

the CPC. The courts should not adjourn the matter sine die, as has been done in the instant case. There is also no need to file a separate final decree proceedings. In the same suit, the court should allow the concerned party to file an appropriate application for drawing up the final decree. Needless to state that the suit come to an end only when a final decree is drawn. Therefore, we direct the Trial Courts to list the matter for taking steps under Order XX Rule 18 of the CPC soon after passing of the preliminary decree for partition and separate possession of the property, suo motu and without requiring initiation of any separate proceedings.”

In view of the dictum of Hon'ble Supreme Court as above, the impugned order dated 13.07.2022 (Annexure P-1) is hereby set aside.

Learned Executing Court is directed to take necessary steps under Order XX Rule 18 CPC for delivering the separate possession of the property to the decree holder, after seeking mode of partition etc. There is no need either for framing issues or for seeking fresh evidence. Revision stands disposed of accordingly.

November 18, 2022

sarita

**(DEEPAK GUPTA)
JUDGE**

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