

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R.No.175 of 2017 (O&M)
Date of decision: 17.08.2022

Jagdish

..Petitioner

Versus

Jagan Lal and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ashish Gupta, Advocate and
Mr. John Kumar, Advocate,
for the petitioner.

Mr. Anil Kumar Rana, Advocate
for respondent no.4.

Mr. Arun Jindal, Advocate
for respondent no.47.

ANIL KSHETARPAL, J(Oral)

A preliminary decree for partition of the joint property was passed on 23.09.2009. Thereafter, an application for preparation of the final decree is pending before the trial Court. Initially a Local Commissioner (Tehsildar, Hodal) was appointed to suggest the mode of partition. Vide his report dated 21.01.2012, he reported that Defendant No.47 (Smt. Kamlesh) has no share as per the revenue record. The aforesaid report was set aside by the Court on 06.11.2015 and a fresh Local Commissioner has been appointed.

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

The learned counsel representing the petitioner contends that the Court has wrongly observed that the property in possession of defendant no.47 shall be excluded while proposing a mode of partition with respect to

the remaining land amongst the remaining proprietors. He submits that such observation made by the Court has no firm basis.

The learned counsel representing respondent no.47 has failed to draw the attention of the Court to any material evidence/reason to exclude the area in possession of defendant no.47, particularly when in a preliminary decree she has been held to be a co-owner on the basis of testamentary disposition by her father-in-law in her favour.

Keeping in view the aforesaid facts, the impugned order passed on 07.11.2016, is set aside only to the extent that the Local Commissioner will propose the mode of partition of the entire joint land including that of defendant no.47.

Disposed of accordingly.

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

August 17, 2022

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**(ANIL KSHETARPAL)
JUDGE**

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