

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

116

**CR-8456-2018(O&M)
Date of Order: 21.07.2022**

SMT. PARKASH KAUR AND ORS

..Petitioners

Versus

BHUPINDER MAAN SINGH AND ANR

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Kulbhushan Raheja, Advocate
for the petitioners.

Mr. Anoop Singh, Advocate
for respondents.

ANIL KSHETARPAL, J(Oral)

The petitioners assail the correctness of order dated 13.11.2018, passed by the Civil Judge, Junior Division, Ferozepur, while dismissing the petitioners objection petition. In a suit for partition of the property, a preliminary decree was passed in the year 1997. The application for preparation of final decree is pending. The petitioners herein objected to the passing of the final decree on various ground including the bar of limitation. The same has been dismissed by the Court.

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

The learned counsel representing the petitioner contends that the respondents , have for the first time, added House No.67A, although, it was never a part of the plaint or preliminary decree passed by the Court. He further submits that the plaintiff failed to disclose the area or the house number of the property sought to be partitioned. Moreover, while drawing the attention of the Court to the order dated 01.03.2018, the learned counsel contends that the trial Court itself noticed that the first preliminary decree is defective/flawed and a second preliminary decree is required to be passed.

Per contra, the learned counsel representing the respondents contends that the description of the property has been given in the caption of the suit, wherein, the description of the property located in all the four directions of the suit property, along with the name of the street and the city, has been mentioned. He further contends that the area of the joint residential house, partition whereof is sought, is known to the parties and can be identified from the property situated on all the four directions. He further submits that he has no objection if a second preliminary decree is passed, if required.

It may be noted here that the order dated 01.03.2018 was subject matter of the challenge in **CR-4011-2018, titled as Smt. Parkash Kaur and others Vs. Bhupinder Maan Singh and another**, decided on **04.10.2018**. The aforesaid revision petition was disposed of while directing the trial Court to first consider the objections filed by the petitioner. The order passed by the trial Court dated 01.03.2018, has never been set aside. Hence, the order passed by the Civil Court while observing the requirement of preparing a second preliminary decree has already been passed.

As regard the first argument of the learned counsel, it may be noted that the plaintiff while filing the suit has specified that the property in dispute is a residential house consisting of about 9 rooms, kitchen, bathroom, courtyard, flush-latrine on the ground floor and about 7 rooms, kitchen, courtyard and staircase etc. on the upper floor. It has further been specified that the property is situated in the Street of Gali Tehsildran located in Ferozepur City. While describing the property, the plaintiff has identified the same by giving description of the property situated on all the four

directions. The same is extracted as under:-

*“East: House of Kaushalaya Devi widow of Karam Chand
West: House of Late Balwant Rai
North: Gali Tehsildran
South: Faridkot Housr (P.W.D. Public Health Store)”*

It has come on record that the aforesaid property has been assigned House No.67A by the Municipal Committee. Hence, reference to House No.67A is with respect to the property in dispute unless the petitioners prove that House No.67A is a separate or independent property. As regards the objection of failure of the plaintiff to disclose the partable area, it may be noted that once the description of the properties located on all the four directions have been given, then, the Local Commissioner demarcating the area, can inform the Court in this respect.

As regards the next argument with regard to the requirement of a second preliminary decree, the learned counsel representing the respondents does not dispute the order dated 01.03.2018.

Keeping in view the aforesaid facts, the revision petition is disposed of with the observation that the trial Court shall proceed with the matter in accordance with law.

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

July 21st, 2022

Ay

**(ANIL KSHETARPAL)
JUDGE**

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