

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

142

2023:PHHC:125164

CR-371-2023

Date of decision: 22.09.2023

AJAY MAHAJAN

..Petitioner

Versus

ABHIMANU AND ORS.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Dheeraj Mahajan, Advocate
for the petitioner.

Mr. Nimish Gautam, Advocate
for respondent No.1, 2 & 3.

Mr. Sachmeet S. Randhawa, Advocate
for respondent No.4 and 5.

ANIL KSHETARPAL, J(Oral)

1. The learned counsel representing the petitioner submits that in a suit for partition of the property, the proceedings for preparation of the final decree is pending before the trial Court. He submits that the Court has entertained the third party objections filed under Order XXI Rule 47 of the Code of Civil Procedure, 1908, and framed the issues. He submits that no execution petition is pending before the Court.

2. The impugned order reads as under:-

“Rajesh Kumar and Usha Rani have filed third party objections under order 21 Rule 47 CPC. They claimed that they are owners in possession of the demised shop on the basis of sale deed dated 18.11.2002 purchased by them from Sarowar Nath son of Mahant Tej Nath, while on the other hand, decree-holder has claimed that demised shop has been purchased by their father Sardari Lal vide sale deed dated 12.06.1972. As both the parties are claiming their ownership in the demised shop, therefore, objections cannot be decided without leading evidence, hence following issues are framed:-

1. Whether objectors Rajesh Kumar and Usha Rani are owners of demised shop on the basis of sale deed dated 18.11.2002?OPO.

2. Whether decree-holder are owners in possession of the demised shop on the basis of sale deed dated 12.06.1972 ?OPDH.

3. Relief.

Both the parties are given 02 opportunities each to conclude their evidence. Now for evidence of objectors, to come up on 15.11.2022.”

3. On the other hand, the learned counsel representing the respondents submits that the petitioner is only a tenant and he has no right, title or interest in the property.

4. Be that as it may.

5. It appears that the attention of the Court was not drawn to the fact that the proceedings for the preparation of the final decree are pending and there is no execution petition.

6. Hence, the revision petition is disposed of with liberty to the petitioner to file a proper application before the trial Court, which shall be decided by the Court within a period of one month, from today.

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

September 22nd, 2023

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(ANIL KSHETARPAL)
JUDGE

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