

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

130

CR-908-2019 (O&M)

Date of Decision: 10.08.2023

Kuldeep Kumar and another

..... Petitioners

Versus

Bimla Devi and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vijay Sharma, Advocate
for the petitioners.

Bimla Devi-respondent No.1 in person.

ANIL KSHETARPAL, J. (ORAL)

1. The petitioners herein are purchasers of 1/4th share of the plot from one of the co-sharers. In the beginning, the suit for partition was filed as there were three more co-sharers having 1/4th share each. A preliminary decree for partition was passed. During the proceedings of preparation of final decree it was found that the total area of the plot is not 588.8 Sq. Yard but 306.93 Sq. Yard. The plaintiff made a statement that she is prepared to accept 1/4th share out of 306.93 Sq. Yard. The Court has passed order accordingly while directing the Local Commissioner to propose mode of partition.

2. Heard learned counsel representing the petitioners at length.

3. Learned counsel representing the petitioners contends that

while passing the final decree, the Court cannot modify the preliminary decree. He submits that final decree can be passed only with respect to 588.8 Sq. Yard.

4. This Court has considered the submissions. Once it is not in dispute that the total available area is 306.93 Sq. Yard, the preliminary decree which only decides the respective shares of the parties, it required to be implemented. It would not be appropriate for the Court to hold that because of difference in the area, no partition can take place.

5. In view of the aforesaid, no ground is made out.

6. Dismissed.

(ANIL KSHETARPAL)
JUDGE

10.08.2023

Satyawan

1. Whether speaking/reasoned: Yes/No

2. Whether reportable: Yes/No