

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

118

CR-1200-2023 (O&M)

Date of decision: 22.02.2023

Amar Nath

...Petitioner(s)

Vs.

Jagdev & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Vikram Singh, Advocate for the petitioner.

NIDHI GUPTA, J.

Present Revision Petition has been filed by defendant No.4/petitioner seeking setting aside of order dated 17.01.2023 (Annexure P9) whereby application filed by the petitioner for allowing him to join proceedings at this stage, and file objections, if any, on suggested mode of partition, has been partly allowed.

2. Brief facts of the case are that plaintiffs/respondents filed an application for final decree in pursuance to preliminary decree passed vide Judgment and Decree dated 18.03.2014 whereby plaintiffs/respondents were declared co-sharer to the extent of 13/120th share in suit land and held entitled to 13/120th share in suit property. Defendants appeared in the Suit and filed their respective written statements. Petitioner was proceeded against ex-parte in the Suit and petitioner's application for setting aside ex-parte order has admittedly been dismissed.

3. During pendency of the application for final decree, the petitioner filed present application (Annexure P7) for allowing him to join proceedings at this stage and also seeking permission to file

objections if any, on suggested mode of partition by concerned revenue officials. Respondents filed reply (Annexure P8) opposing the petitioner's application for joining proceedings. Vide impugned order dated 17.01.2023 (Annexure P9) learned Court below has partly allowed application of the petitioner and allowed him to join proceedings at this stage only for argument and dismissed the same qua permitting him to file objections against suggested mode of partition.

4. It is vehemently submitted by learned counsel for the petitioner that learned trial Court has totally ignored the fact that if the petitioner is not allowed to file objections against suggested mode of partition then he will not be able to protect his right in the land in dispute. It is submitted that great loss and harm will be caused to the petitioner and his family, which cannot be compensated by any means if he is not permitted to defend the application for final partition. It is therefore, prayed that petitioner be permitted to join proceedings and file objections, if any, on suggested mode of partition.

5. No other argument is raised on behalf of the petitioner.

6. I have heard learned counsel for the petitioner.

7. It is not denied by learned counsel for the petitioner that notice in the present proceedings was served upon the petitioner, personally, on 01.04.2017. Despite that the petitioner chose not to appear in the present proceedings for passing of final decree. Accordingly, vide order dated 01.04.2017, the petitioner was proceeded

against ex-parte. Thereafter, report of Local Commissioner regarding mode of partition was received on 05.01.2019; whereafter, the petitioner challenged order dated 01.04.2017, which application was dismissed vide order dated 27.03.2019. However, petitioner did not challenge the order dated 27.03.2019, and instead filed present application dated 10.05.2019 (Annexure P7) for permission to join proceedings and file objections.

8. I am in concurrence with observations of learned Court below that if the petitioner is allowed to join proceedings at this stage and permitted to file objections, then the same will amount to setting aside of ex-parte order dated 01.04.2017 as well as order dated 27.03.2019.

9. In view of the above facts, I find no error in the impugned order whereby the petitioner has been allowed to join proceeding at this stage, and permitted to advance arguments on report of Local Commissioner but, has not been granted permission to file objections. It is clear from the record that the petitioner has been casual if not careless in pursuing the present proceedings.

10. Accordingly, present Revision Petition stands dismissed.

11. Pending application(s) if any also stand(s) disposed of.

22.02.2023

Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No