

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

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2023:PHHC:091789

EFA-1-2023 (O&M)

Date of decision: 20.07.2023

MOHD NASEEM

..Appellant

Versus

GURBACHAN SINGH AND ANR

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. R.S. Khosla, Sr. Advocate
with Mr. Sarvesh Malik, Advocate
for the appellant.

ANIL KSHETARPAL, J(Oral)

1. The appellant herein filed the objection petition in the Executing Court, which has been ordered to be dismissed on 29.08.2022. The appellant claims to be a purchaser of 25.2 ½ square yards area of a constructed house from Mohd. Qadir vide the registered sale deed dated 04.06.2016. Mohd. Qadir had purchased the property from Sh. Pawan Kumar. Sh. Pawan Kumar had purchased the property from Sh. Vinod, Sh. Jasmer and Sh. Kuldeep, who were three sons of Smt. Harbanso. In a civil suit for partition of the property, the Court has held that Smt. Harbanso was owner to the extent of 1/3rd share in total land measuring 6 marlas. Thus, her share comes to 2 marlas. Smt. Harbanso transferred the property in favour of her three sons vide the transfer deed dated 21.11.1994. Thereafter, the aforesaid three sons sold the property to Mohd. Islam vide sale deed dated 21.11.2006. Mohd. Islam thereafter sold the property in favour of Sh. Parveen Goyal, who in turn sold the property in favour of Sh. Ram Bilas. Thus, on the date when the alleged sale deed was executed by Sh. Vinod, Sh. Jasmer and Sh. Kuldeep in favour of Sh. Pawan Kumar in the year 2011, they were not left with any share in the said property.

2. After noticing these facts, the Executing Court has dismissed the objection petition filed by the appellant.

3. The learned Senior counsel representing the appellant while assailing the correctness of impugned order passed by the Executing Court submits that the partition of the property by metes and bounds method is not permissible within the territory of Chandigarh. He submits that the property cannot be physically divided.

4. Admittedly, there is a difference in the properties which are part of planned city and unplanned area under the Capital of Punjab (Development and Regulation) Act, 1952. The rules in the said Act prohibit the physical partition of the property, which is the subject matter of allotment by the Chandigarh Administration. In other words, a commercial or residential plot or building once allotted will remain as it is and the partition is possible only by sale of the entire unit and not by its physical division. However, the present case pertains to an unplanned area, which is located in the *Lal Lakir* of the old village, which comes within the territory of Chandigarh and also within the Municipal Corporation, Chandigarh. Such properties are not a part of the areas allotted by the Chandigarh Administration. There is no prohibition in the physical division of the property located in the village in the State of Punjab.

5. Keeping in view the aforesaid facts and discussion, no ground to interfere is made out.

6. Dismissed, accordingly.

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

July 20th, 2023

(ANIL KSHETARPAL)
JUDGE

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