



CR-963-2022

1

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CR-963-2022
Date of decision : 25.07.2024

Ranjit Gupta and another

... Petitioners

Versus

Parveen and others

... Respondents

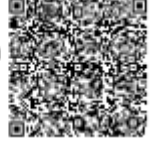
CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Naresh Kumar Manchanda, Advocate
for the petitioners.

Mr.Akshay Kumar Goel, Advocate
for respondents no.1 and 2.

VIKAS BAHL, J.(ORAL)

1. This is a Civil Revision Petition filed under Article 227 of the Constitution of India for setting aside the impugned order dated 28.02.2022 (Annexure P-6) passed by the Additional Civil Judge (Senior Division), Moga, whereby the objections of the petitioners against the report of Local Commissioner have been dismissed.
2. Brief facts of the present case are that respondents no.1 and 2 had filed a suit for separate possession as owner to the extent of 1/3rd share by way of partition, by metes and bounds, with respect to the shop in question. The petitioners were defendants no.1 and 2 in the same. The Civil Judge (Junior Division), Moga vide judgment dated 17.08.2010 had decreed the suit in the following terms:-



“24. Issue No.5 (Relief).

In view of my findings on the above said issues, the suit of plaintiffs is decreed for separate possession of their share to the extent of 1/3d share in suit property, by way of partition, by metes and bourids. The remaining 2/3 share of suit property is owned by defendants No.1 and 2 having 1/3 share of each. The defendants are restrained from selling, mortgaging or alienating more than their share in suit property without getting the same partitioned. Preliminary decree sheet be prepared and file be consigned to the record room.

Pronounced in open Court.

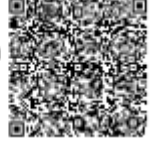
(Kewal Krishan, PCS)

on 17.8.2010

Civil Judge (Jr.Division), Moga”

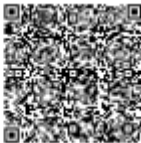
3. The present petitioners (defendants no.1 and 2) were jointly held to be having 2/3rd share in the suit property whereas respondents no.1 and 2 (plaintiffs) were jointly stated to have 1/3rd share in the suit property. An application was filed for passing of the final decree in which the trial Court vide order dated 31.01.2019 had directed the Local Commissioner to submit its report. The report dated 25.06.2020 was accordingly submitted. Objections were raised with respect to the said report by the petitioners which were dismissed vide order dated 28.02.2022 and thus, the present revision petition has been filed.

4. During the course of arguments, learned counsel for the petitioners as well as counsel for respondents no.1 and 2, who are the contesting parties, have jointly referred to the report of the Local Commissioner dated 25.06.2020 at page 30 of the paper book and have submitted that a perusal of the proposed division in the said report would

**CR-963-2022****3**

show that the shop is sought to be divided into three portions and one person is proposed to be given the front part and others are proposed to be given the parts of the shop which are at the back. It has jointly been submitted that no proper partition of the said shop can be done and it is not possible for all the persons to conduct business in the said shop and they would not be able to enjoy the property even after the partition is effected by metes and bounds. It has further jointly been submitted that the said shop be put up for auction /sale and for the said purpose, necessary directions be given to the trial Court and after the auction is conducted, in accordance with law, the sale proceeds of the same be distributed among the petitioners and respondents no.1 and 2 as per proportions of the share which have been held by vide judgment dated 17.08.2010. It has jointly been prayed that the present petition be disposed of with a direction to the trial Court to record the statements of the petitioners and respondents no.1 and 2 to the said effect and to proceed to auction the property and to distribute the sale proceeds of the same.

5. Keeping in view the above said facts and circumstances and the joint statement made on behalf of the petitioners and respondents no.1 and 2, who are the contesting parties and also keeping in view the fact that the plea raised by the petitioners and respondents no.1 and 2 is genuine and bonafide, the trial Court is directed to record the joint statement of the petitioners and respondents no.1 and 2 to the effect that both the parties wish to auction / sell the shop in question and then to proceed with the auction, in accordance with law, and thereafter distribute the sale proceeds



CR-963-2022

4

according to the entitlement of the petitioners and respondents no.1 and 2 as per judgment dated 17.08.2010.

6. Parties will appear before the trial Court on 07.08.2024.

(VIKAS BAHL)
JUDGE

July 25, 2024
Davinder Kumar

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