



In the High Court of Punjab and Haryana at Chandigarh

(135)

CR No.3932 of 2024(O&M)

Date of Decision: 16.07.2024

Gulshan Kumar and others

.....Petitioners

Versus

Asha Rani and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Anand Kashyap, Advocate and
Mr. Aniket Sindhar, Advocate for the petitioners.

HARKESH MANUJA, J. (ORAL)

1. By way of present revision petition filed under Article 227 of the Constitution of India, challenge has been laid to an order dated 03.04.2024 passed by the Civil Judge (Senior Division), Gurdaspur, whereby the right of the petitioners/judgment debtors to file a proposed site plan has been foreclosed.

2. A perusal of the record shows that in the present case a decree for separate possession by way of partition of the joint holdings came to be passed by the Court of Civil Judge (Senior Division), Gurdaspur, on 24.05.2023. In execution thereof, the plaintiffs being treated as decree holders filed the site plan on 01.12.2023, however, the petitioners/defendants being treated as judgment debtors could not submit their site plan despite having availed 3-4 opportunities resulting into foreclosure of their right to submit the same. In the given facts, the Executing Court failed to appreciate



the fact that in a suit for separate possession by way of partition, neither of the parties is to be treated as decree holder or judgment debtor and in case a preliminary decree is passed determining the shares of the respective parties, each of the parties is to be counted as decree holder. The filing of proposed site plan by all the concerned is extremely essential in a decree for separate possession by way of partition and thus, the passing of impugned order against the petitioners while forbidding them to file their site plan would cause a serious prejudice to their substantial rights involved in the property in question despite there being a decree in their favour.

3. In such circumstances, the impugned order dated 03.04.2024 passed by the Civil Judge (Senior Division), Gurdaspur, is hereby set aside. The prayer made in the present revision petition is allowed. The petitioners are permitted to submit their proposed site plan with the executing Court within a period of 07 days from today.

JULY 17, 2024
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(HARKESH MANUJA)
JUDGE

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