

**CR-1436-2023(O&M)
and other connected case**

2025 PHHC 009427



**209-1 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

1. CR-1436-2023(O&M)

Khushi Ram through LR Tirath Singh

..Petitioner

Versus

Maghar Ram (since deceased) through his LRs and others

..Respondents

2. CR-1438-2023(O&M)

Khushi Ram through LR Tirath Singh

..Petitioner

Versus

Maghar Ram (since deceased) through his LRs and others

..Respondents

Date of decision: 22.01.2025

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. K.S.Dadwal, Advocate
Mr. Neha Jain, Advocate for the petitioner

Mr. R.S.Minhas, Advocate for the respondents

ANIL KSHETARPAL, JUDGE

By this order, two connected Civil Revision Petitions i.e CR-1436 and 1438 of 2023 shall stand disposed of.

This litigation has a chequered history of 40 years. The suit for possession by way of partition of the joint property was filed in the year 1984. Preliminary decree for partition was passed on 18.09.1986, which was



modified by the First Appellate Court on 06.01.1988. Regular Second Appeal was dismissed. Final decree for partition was passed on 19.01.2013. The objector is a heir of late Sh.Khushi Ram, who is owner to the extent of 23 marlas. While passing the preliminary as well as final decree, the courts have not disturbed the share of the petitioner herein. However, when the execution petition was filed, he filed objections, which were dismissed by the Executing Court. He also filed an application for passing a supplementary decree which is pending. Thereafter, he filed an application for clubbing the objections with application for passing a supplementary decree, which was dismissed and that is how the petitioner has filed two revision petitions.

Learned counsel representing the petitioner contends that the respondents have been given more land than their entitlement and the petitioner's possession has been ignored.

Per contra, the learned counsel representing the respondents submits that the respondents have been given according to their share i.e 23 marlas and they are not claiming even an inch more than 23 marlas of land. He submits that while partitioning the property, the court is required to divide the property proportionately according to its value, potentiality and location. Hence, there is some likelihood of disturbing the possession.

This Court has considered the submissions made by the learned counsel representing the parties.

The Executing Court has passed a detailed order while considering the objection petition. It has been observed by the Executing



Court that the land measuring 23 marlas, which falls in the share of the petitioner, has been kept out of partition proceedings by keeping his share intact. Moreover, the learned counsel representing the decree-holders has specifically stated that they are not claiming more than 23 marlas.

With regard to second submission, it may be noted that a co-sharer in possession cannot claim that he is entitled to retain the portion of the joint property which is in his possession. While partitioning the property, the court is expected to divide the property proportionately between the parties.

Learned counsel representing the petitioner further submits that primary and final decree of partition is bad for partial partition. At this stage, it would not be appropriate to go into this issue because if there are some other joint property, the petitioner can always file a fresh suit.

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

Hence, both the revision petitions stand dismissed.

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

(ANIL KSHETARPAL)
JUDGE

22.01. 2025
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Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No