



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

134

CR-4205-2024**Date of decision : 29.01.2025**

Ashok Kumar (since deceased) through his LRs Petitioner

versus

Bharat Bhushan (since deceased) through his LRs and ors.

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Baljinder Singh, Advocate
for the petitioner.

Mr. Kartar Singh, Advocate
for respondents No.1 and 2.

PANKAJ JAIN, J. (Oral)

1. Instant revision petition filed under Article 227 of the Constitution of India is directed against order dated 31.05.2024 (Annexure P-1), whereby Civil Judge (Jr. Division), Kharar dismissed the third party objections raised by the petitioner.

2. Respondent-decree holder filed suit for possession of land as detailed out in the head note of the plaint. The suit was decreed vide judgment and decree dated 09.07.2014. Relevant extract reads as under:-

“This suit coming on this 9th day of July, 2014 for final disposal before me (K.S. Dhaliwal, PCS, Addl. Civil Judge (Sr. Divn.), Kharar) in the presence of Sh. Harbant Singh Advocate counsel for plaintiffs and Sh. H C Rathore Advocate counsel for defendants. It is hereby ordered that the suit of the plaintiffs for possession of land comprised in Kh/Kh No. 559/586 Khasra no. 38//20/1(1-0), 21/2(8-0) total



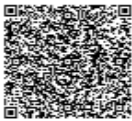
1 Kanal 8 Marla situated with in the revenue limits of village Badali H B no. 71 Tehsil Kharar District Mohali vide jamabandi for the year 2004-05 by way of removing construction raised by defendants no. 1 to 6 over the same is hereby decreed with costs and defendants are hereby restrained from raising further constructions in the suit land.”

3. Execution was filed. During the execution, objections have been filed by the present petitioner seeking stay of the execution till the disposal of the suit for partition. The claim of the objector/petitioner is based upon sale deed executed in his favour by Neetu Sharma, who was arraigned as proforma defendant No.7 in civil suit.

4. Counsel for the decree holder does not dispute that predecessor-in-interest of the petitioner namely Neetu Sharma had valid title and is a co-sharer in joint khasra. She had transferable right. Sale deed in favour of the petitioner qua 4.5 marla of land, is not under cloud.

5. In the considered opinion of this Court, the aforesaid being the admitted position. The Executing Court either should have waited for the conclusion of the suit for partition or could have carried out exercise to determine rights of objector itself by appointing Local Commissioner. The proper course would have been to ask the decree holder to furnish list of the co-sharers. Thereafter to determine the share of those co-sharers with the aid of the revenue authorities, it was incumbent on the Executing Court to find out and ascertain as to which co-sharer is in possession of which portion of joint land. It is only after ascertaining the co-sharer in possession of more than his share that the decree could have been executed.

6. In view of above, the present revision petition is disposed off. The impugned order dated 31.05.2024 (Annexure P-1) is set aside.



The matter is remanded back to the Executing Court to decide the objections afresh.

7. Ordered accordingly.

(PANKAJ JAIN)
JUDGE

29.01.2025
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No