



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

234

CR-3097-2019

Date of Decision: 09.02.2026

Ram Kishan

...Petitioner

V/s

Lal Bahadur and others

...Respondents

**CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL**

Present: Mr. S.M. Tripathi, Advocate, for the petitioner.

Mr. Lekh Raj Sharma, Amicus Curiae, with  
Mr. Abhishek Sharma, Advocate.

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**VIKRAM AGGARWAL, J (ORAL)**

The instant revision petition assails the order dated 27.03.2019 passed by the executing Court (Court of Civil Judge (Jr. Divn), Chandigarh), vide which the execution petition filed by the petitioner-plaintiff-decree holder was dismissed being non-executable, while holding that the relief sought by way of the execution, seeking possession of either first floor or ground floor of the demised premises could not granted to the decree-holder.

2. On 31.07.2025, the following order was passed by this Court:-

*“Vide judgment and decree dated 31.03.2016 (Annexure A-1), the suit for declaration with consequential relief of possession of half share of the suit property i.e. Site No. 583, Charan Singh Colony, Mouli Complex, UT, Chandigarh, was decreed by the Court of Civil Judge (Jr. Division), Chandigarh.*

*The appeal preferred against the said judgment and decree by the respondent-defendant/Lal Bahadur was dismissed by the Court of Additional District Judge, Chandigarh on 04.01.2018 (Annexure A-2).*

*An execution petition was preferred by the present petitioner, but the same was dismissed being non-executable stating that the possession of either first floor or ground floor of the demised premises could not be granted and the remedy with the decree-holder would be to file a suit for partition.*

*Concededly, the property being in Chandigarh, the same cannot be partitioned by metes and bounds as per the prevalent Rules and Regulations and judgment of the Supreme Court of India in the case of Resident's Welfare Association and another Vs. Union Territory of Chandigarh and others (2023) 8 SCC 643.*

*Learned Amicus Curiae has referred to a judgment of the Supreme Court of India in the case of Rajinder Kaur (deceased) through Legal Heir Usha Vs. Gurbhajan Kaur (deceased) through LRs Upinder Kaur and others, 2025(2) RCR (Civil) 98, wherein it was held that the only solution in such matters would be the sale of property by way of auction and equal distribution of the sale proceedings amongst the claimants.*

*That being so, though respondent No.1 had not put in appearance despite service on account of which Sh. Lekh Raj Sharma, was appointed as Amicus Curiae, I deem it appropriate to issue notice to respondent No.1 calling upon him to explain as to why the property be not sold by way of auction.*

*Adjourned to 21.08.2025.*

*To be taken up in the urgents.”*

3. I have heard learned counsel for the parties.
4. Learned counsel for the petitioner submits that the executing Court erred in dismissing the execution petition for partition by metes and bounds is not permissible in Chandigarh. He submits that in view of the judgment of the Hon'ble Apex Court in the case of *Rajinder Kaur (deceased) through Legal Heir Usha Vs. Gurbhajan Kaur (deceased) through LRs Upinder Kaur and others, 2025(2) RCR (Civil) 98*, the executing Court could have ordered the sale of the property by way of auction and equal distribution of the sale proceedings amongst the claimants.
5. Mr. Lekh Raj Sharma, learned Amicus Curiae also submits that the course adopted by the executing Court was not proper as partition by metes and bounds is not permissible in Chandigarh.
6. Having considered the matter from all angles, this Court is of the opinion that the executing Court erred in dismissing the execution petition and it should have explored other ways to execute the decree, including putting the property to auction as has been held by the Hon'ble Apex Court in the case

***Rajinder Kaur (deceased) through Legal Heir Usha*** (supra), of course, if so made out under the facts of the case and in accordance with law.

7. That being so, the impugned order dated 27.03.2019 passed by the executing Court (Civil Judge (Jr. Divn.), Chandigarh) is set aside and the matter is remitted to the executing Court to proceed in accordance with law keeping in view the judgment of the Hon'ble Apex Court in the case of ***Rajinder Kaur (deceased) through Legal Heir Usha*** (supra).

8. It is expected that since the matter is pending for a long time and the decree by the trial Court was passed as far back as on 31.03.2016, the learned executing Court shall make earnest efforts to dispose of the matter expeditiously.

Pending application(s), if any, stand(s) disposed of accordingly.

(VIKRAM AGGARWAL)  
JUDGE

February 09, 2026

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No