

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****CR-7018-2019 (O&M)****Date of Decision : 21.01.2026**

Vinod Kumar

... Petitioner

Versus

Shish Pal (since deceased) through LRs

... Respondents

**CORAM : HON'BLE MRS. JUSTICE ALKA SARIN**

Present : Mr. Vinod Bhardwaj, Advocate for the petitioner.

Mr. Keshav Pratap Singh, Advocate for the respondents.

**ALKA SARIN, J. (Oral)**

1. Present revision petition has been filed challenging the order dated 20.07.2019 vide which the application filed by the petitioner under Order XXI Rule 95 of the Code of Civil Procedure, 1908 has been dismissed.
2. The brief facts relevant to the present *lis* are that one Maha Singh filed a suit for recovery against defendant-respondent namely, Shish Pal (since deceased now represented by his legal representatives). Vide judgment and decree dated 27.01.2011 the suit was decreed in favour of Maha Singh. In execution, the property comprised in Khewat No.196/180 Khatauni No.247 Rect. No.121 Killa No.8, 11, 12, 13 18 and 19 situated within the revenue estate of village Patti Kaisth Seth, Teshil and District Kaithal to the extent of 7/761 share of Shish Pal (defendant-respondent) was put to auction through Court. The petitioner herein was the highest bidder. The property was auctioned on 20.12.2014 for a total sale consideration of ₹5,80,000/-. The sale

was confirmed vide order dated 03.07.2015 and certificate of sale was issued on 17.07.2015. It is further the case of the petitioner that since the defendant-respondent (judgment-debtor) was not handing over possession of the property, the application was filed under Order XXI Rule 95 CPC for delivery of possession. Vide the impugned order dated 20.07.2019, the application has been dismissed. Aggrieved by the same, present revision petition has been filed.

3. Learned counsel for the petitioner would contend that the defendant-respondent herein was in exclusive possession of the shop which was purchased by the petitioner in an open Court auction hence the Executing Court has erred in not directing the delivery of possession in favour of the plaintiff-petitioner. It is further the contention that mutation was also sanctioned in favour of the petitioner and the property ID was also provided.

4. Learned counsel for the respondents would contend that the property which was auctioned as per details of the land auctioned appended with the petition as Annexure P-1 is only the share to the extent of 7/761 comprised in Khewat No.196/180 Khatauni No.247 Rect. No.121 Killa No.8, 11, 12, 13, 18 and 19 situated within the revenue estate of village Patti Kaish Seth, Teshil and District Kaithal and no specific khasra number was auctioned. Since only share in the property was auctioned, which the petitioner purchased knowingly, hence no physical possession can be delivered and that only symbolic possession can be delivered to him which been held by the Executing Court.

5. Heard.

6. In the present case, a perusal of the impugned order reveals that attachment report dated 15.03.2012 was on the file from which it was gathered

that only 7/761 share of defendant-respondent/judgment-debtor in Rect. No.121 Killa No.8, 11, 12, 13, 18, 19 was attached. Thereafter, vide order dated 09.11.2012 warrants of sale were issued. The petitioner herein moved an application for depositing the price of the auction. The sale was confirmed on 03.07.2015 and certificate of sale was issued on 17.07.2015. As per certificate of sale which has been appended with the petition as Annexure P-1, details of land auctioned reads as under :

*“That land comprised in Khewat No.196/180 Khatoni No.247, Rect No.121 Killa No.8, 11, 12, 13, 18, 19 situated within the revenue estate of Patti Kaisth Seth Tehsil and District Kaithal to the extent of 7/761 share.*

*Sale has been duly confirmed on dated 03.07.2015 by the order of this Court.*

*Given under my hand and the sale of this court on this 3<sup>rd</sup> day of July, 2015.”*

7. A perusal of the above reproduced contents of the certificate of sale clearly reveal that it was only a share which had been auctioned. The petitioner was well aware that what has been put to auction was only a share in the property and there was no specific khasra number which had been auctioned. Knowingly and being fully aware of the situation the petitioner opted to purchase the said share. It is a settled law that purchaser of the share can only be granted symbolic possession qua the property purchased by him and he would have to file an appropriate application before the Authorities to seek physical possession by way of partition. The Executing Court vide the impugned order dated 20.07.2019 held that the petitioner was only entitled to symbolic possession. Hence, no fault can be found with the impugned order

passed by the Executing Court.

8. In view of the above, present revision petition being devoid of any merit is accordingly dismissed. Pending applications, if any, also stand disposed off.

9. Needless to say, that the petitioner would always be at liberty to apply for partition in accordance with law.

21.01.2026  
jk

**( ALKA SARIN )**  
**JUDGE**

NOTE: Whether speaking/non-speaking: Speaking  
Whether reportable: YES/NO