

Mela Singh Vs. Hansa Singh and others.

PBHOC0-000275-2018

FD/2/2018

(Application for appointment of local commissioner.)

Order:-

- Present: Sh. Rajesh Kumar, Advocate for the applicant.
Sh. Rakesh Kumar, Adv. counsel for respondent no. 1A to 1F.
Sh. Rohit Mahajan, Adv. counsel for respondent No. 2
& 3.
Reply to above-mentioned application has filed today.
1. This order of mine shall dispose of application moved by applicant for appointment of local commissioner.
 2. In the application, it has been averred that the square portion/kurra of the applicants/DH to the extent of their share 1/3 of the suit property is to be separated by metes and bound from the JD/respondents and the possession of the same is also to be delivered to the applicants in the spirit of judgment and preliminary decree passed by Ms. Mandeep Kaur, PCS, the then learned Civil Judge (Jr. Division), Dasuya by its vide judgment and decree dated 20.1.2007. It has been further averred that for the above said purpose a revenue expert as Local Commissioner is require to be appointed. It has been further averred that applicant /DH is ready to furnish the fee of local Commissioner. Hence, the present application.
 3. The reply to the application is also considered.
 4. I have heard the learned Counsel for the parties and have gone through the case file with their able assistance.
 5. The purpose of the partition of the property between the co-sharers is to allot the separate portion of the land to all the co-sharers, taking

into consideration the value of the land and the share of the parties, so that, all the co-sharers get proportionate share in the valuable piece of land as well as the inferior quality of the land. The interest of all the co-sharers should be taken care of. Vide judgment and decree dated 20.1.2007 passed by Hon'ble Court of Ms. Mandeep Kaur, PCS, the then learned Civil Judge (Jr. Divn.), Dasuya, preliminary decree for separate possession was passed in favour of plaintiff thereby holding that plaintiff as well his brothers namely Hansa Singh and Banta Singh are having 1/3 share each in the properties mentioned in head (A) to (C) and parties were held entitled to get separate possession of their respective shares by way of partition by metes and bounds. Thus, in view of the above-said preliminary decree and to avoid multiplicity of litigation and in interest of justice, Halqa Kanungo of concerned area is hereby appointed as a Local Commissioner to prepare and submit his report as per the following directions:

1. He will visit the spot presence of the parties, after giving notice to both the parties and their counsels.
2. He will submit his report suggesting three modes of partition specifying shares/kuras of the plaintiff and of each of the defendants separately in present case in the court on or before the next date of hearing.
3. He shall also furnish three suggested site plans showing the proposed possession to be given to plaintiff and to each of the defendants separately in the property in dispute in consonance with the present order.

It is further ordered that copy of judgment and decree dated 20.1.2007 passed by Hon'ble Court of Ms. Mandeep Kaur, PCS, the then learned Civil Judge (Jr. Divn.), Dasuya. alongwith the copy of present order

be sent to the local commissioner. The fees of the Local Commissioner is assessed as 4000/- to be paid by the applicant/DH. Case adjourned to 05.5.2023 awaiting report of Local commissioner.

Date of Order:
12.04.2023
*Saurabh**

Amardeep Singh Bains, PCS
Addl. Civil Judge (Sr. Divn),
Mukerian, (UID No.PB0335)