

CNR No: PBHOC00001592016

CIS No: FD/9/2022

RAM KISHAN VS DHARAM SINGH etc.

Present: Sh. Satish Dadwal, Adv. counsel for applicant.
Sh. Navdeep Sahota, Adv. Counsel for the respondent no.7.
Sh. N.C. Barota, Adv. Counsel for the respondent no. 1A to 1C, 2A, 2B, 3A, 3B, 3D, 3E, 3F, 4 & 5
Sh. R.K. Jaswal, Advocate counsel for respondent No. 6.
Respondent No. 6, 8 and 9A to 9C exparte.

Sh. N.C. Barota, Adv has filed power of attorney on behalf of respondent no. 3E and 3F and memo on behalf of respondent no. 3C and 5. He is directed to file power of attorney on behalf of respondent No. 3C and 5 on 05.12.2022.

Today, the learned counsel for the applicant has suffered a statement to the effect that he has no objection, if this Court orders partition by way of metes and bounds by allowing applicant to retain the possession of property intact. He further submitted that if it is found that the applicant is in deficient possession in property in dispute regarding which decree dated 11.8.2015 has been passed in that eventuality, decree holder may be accorded possession as per his share in the property in dispute.

The learned counsel for respondents No. 1A to 1C, 2A, 2B, 3A, 3B, 3D, 3E, 3F, 4 & 5 has also suffered a statement to the effect that he has no objection if this court orders partition by way of metes and bounds by allowing the above-mentioned respondents to retain their possession in the property in dispute. He further submitted that respondent No. 3C namely Dalbir Singh is actually Balbir Singh and he has wrongly mentioned in the memo of parties as Dalbir Singh. His actual name is Balbir Singh and he has been listed in the amended memo of parties as respondent No. 5 are one and

same person.

The learned counsel for respondent No. 6 has also suffered a statement to the effect that he has no objection if this court orders partition by way of metes and bounds by allowing the above-mentioned respondent to retain his possession in the property in dispute.

The learned counsel for respondent No. 7 has also suffered a statement to the effect that respondent No. 7 is having 52 marlas of land in the property in dispute and on some portion of the land, he has constructed his house and on some portion of the land, he has constructed haveli and if the partition is ordered to be effected by metes and bounds, respondent no. 7 has no objection, if he is given his share of which he is in possession and if any deficiency in the share of respondent No. 7 that may be made good in his favour.

I have heard the ld. Counsels for the parties and have gone through the statements recorded in the court. The instant application/execution has been filed by applicant for passing of final decree on the basis of preliminary decree dated 11.8.2015 passed by the Ld. Court of Sh. Sumit Makkar, PCS, the then Ld. Addl. Civil Judge (Sr. Divn.), Mukerian passed in Civil Suit No. 208 of 2010, CS Regis No. CS/731/2014, instituted on 15.10.2010 filed by applicant for separate possession of suit property 2 kanals 17 marlas by way of partition by metes and bounds out of khasra No. 3411/2 (16-0) situated in village Depur, H.B. No. 588, Tehsil Mukerian, Distt. Hoshiarpur as per jamabandi for the year 2006-07. Now, 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. Apparently, vide judgment and decree dated 11.8.2015 passed by the Sh. Sumit Makkar, PCS, the then Ld. Addl. Civil Judge (Sr. Divn.), Mukerian passed in Civil Suit No. 208 of 2010, CS Regis No. CS/731/2014, instituted on 15.10.2010, preliminary decree for separate possession was passed in favour of plaintiff and against the defendants. The para No. 25 containing relief portion of the above-said judgment reveals that the share of plaintiff as well as that of defendants no. 1 to 10 were duly mentioned in the suit property. Thus, in furtherance of preliminary decree dated 11.5.2018 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 the 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 11.8.2015 passed by the Sh. Sumit Makkar, PCS, the then Ld. Addl. Civil Judge (Sr. Divn.), Mukerian passed in Civil Suit No. 208 of 2010, CS Regis No. CS/731/2014, instituted on 15.10.2010 alongwith the copy of present order be sent to the local commissioner. The fees of the Local Commissioner is assessed as Rs. 2000/- to be paid by the DH. Case adjourned to 05.12.2022 awaiting report of Local commissioner.

Pronounced in the open Court
22.11.2022
*Saurabh**

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

Dictated on : 22.11.2022
Transcribed on : 22.11.2022
Checked on : 22.11.2022
Signed on : 22.11.2022

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