

**IN THE COURT OF RENU GOYAL, PCS, CIVIL JUDGE (JR. DIVISION),
DASUYA, UID PB0553.**

01 Final Decree

Mukesh Kumar versus Ranjit Singh Etc.

Final Partition

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Application of the defendants for necessary directions to the Local Commissioner to prepare the separate Kuras of the defendants from each others.

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Present: Sh. Parminder Kumar Sharma, Adv. Counsel for the applicant.
Sh. RS Miani, Adv. Counsel for the plaintiff.

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ORDER:-

This Order of the Court shall dispose of an application for necessary directions to the Local Commissioner to prepare the separate Kuras of the defendants from each others

2. It is averred in the application that Halqua Girdawar has been appointed as Local Commissioner by the court with the directions to partition the suit land and prepare the separate Kuras of the parties. But the Local Commissioner only separated the land of the plaintiff from the defendants and prepare the separate Kuras of the plaintiff. The defendants have constructed their residential houses in the suit land and all the defendants/ applicant requested to the Local Commissioner to prepare the separate Kuras of the defendants also, but the Local Commissioner did not accept the request of the applicants/ defendants at that time. So, thus in this way the purpose of partition of the suit land was not solved as the land of the defendants is still joint. Moreover, the local commissioner did not demarcate the suit land nor written in his report from which point the local commissioner start measurement of the suit land. Hence, the present application has been filed by the defendants for issuing direction to the local commissioner to submit fresh report after conducting the measurement of the suit land and prepare the separate Kuras on abadi land of all the defendants from

each other.

3. In reply to the present application, it has been submitted by the respondent that actually the JD/ applicant has not come to the court with clean hands and has concealed the facts. It is submitted that plaintiff/ DH has filed the suit for separate possession of the land measuring 2 kanals 17 marlas 3 Sarsahi and the said suit has been decreed in favour of the plaintiff/ DH and as per the decree dated 21-11-2017, the share of the DH/ plaintiff was separated and the defendant has hotly contested the said suit and there was no any request in the same suit for the separate possession of their share and as per the decree dated 21-11-2017 the Local Commissioner was appointed to partition the suit property by separating the share of the DH/ plaintiff and Local Commissioner has submitted his report on mode of partition as per the decree dated 21-11-2017 and has separated the share of the DH/ plaintiff which was already in possession of the plaintiff and the possession of the JD/ applicants was also admitted. The applicants have already filed the objections to the report of the Local Commissioner and as such the present application is not maintainable.

4. I have heard learned counsel for the parties and have gone through the case file meticulously with their able assistance.

5. By way of the present application, the plaintiff/ applicant has sought necessary directions to the Local Commissioner to prepare the separate Kuras of the defendants from each others.

Admittedly, plaintiff/ DH has filed the suit for separate possession of the land measuring 2 kanals 17 marlas 3 Sarsahi and the said suit has been decreed in favour of the plaintiff/ DH and as per the decree dated 21-11-2017, the share of the DH/ plaintiff was separated.

Now the contention of the defendants is that the defendants have constructed their residential houses in the suit land and all the defendants/ applicant requested to the Local Commissioner to prepare the separate Kuras of the defendants also, but the Local Commissioner did not accept the request of the applicants/ defendants. Admittedly, the defendants are also in separate possession of their shares. The land between the parties is still to be partitioned in the final decree. The

possession of the parties in the present suit is not disputed by any of the party. So, if the land of the plaintiffs as well as the defendants is partitioned in the final decree, no prejudice will be caused to any of the party. Rather it will save time and multiplicity of the litigation between the parties. So, in the facts and circumstances of the present case and in the interest of justice, the present application is allowed. Accordingly, Halqua Girdawar is appointed as Local Commissioner with direction to visit the property in dispute in presence of both the parties after giving notice to them and to prepare the separate Kurras of each of the party as per their possession and to submit afresh report regarding the same. His fee is assessed Rs.5000/- to be paid by the applicant. The Local Commissioner is directed to submit his report on or before 17-12-2019. Local Commissioner is at liberty to inspect the file with the permission of the Court.

RenuGoyal, PCS,
CJJD/Dasuya/ 8-11-2019.
UID PB0553

Varun Talwar.