

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

01 Final Decree

Mukesh Kumar versus Ranjit Singh Etc.

Application for final decree.

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Application to review the order dated 8-11-2019 and give directions to the LC to accept the Kura of DH Mukesh Kumar as prepared by the previous LC.

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

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ORDER:-

This Order of the Court shall dispose of an application filed by the applicant to review the order dated 8-11-2019 and give directions to the LC to accept the Kura of DH Mukesh Kumar as prepared by the previous LC .

2. It is averred in the application that the Court has passed the order dated 8-11-2019 to separate the Kurras of the defendants between each others. It is further submitted that actually the applicant/ DH has got his share separated, vide preliminary partition order dated 21-11-2017 and in this application for final order for partition, the Court has appointed Halqua Girdawar (LC) who has prepared the mode of partition and separate Kura from the JD and submitted the report in this case. As per the LC report, the Kurra of the decree Holder was prepared, but order dated 8-11-2019 is silent about the kurra of the Decree Holer and about the report of the Local Commissioner. Hence, the present application.

3. The respondents did not file the reply to the said application, rather orally contested the same.

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

5. The Court of the undersigned has passed the order dated 8-11-2019 whereby,

the Halqua Girdawar is again appointed as Local Commissioner with direction to again 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 and to submit afresh report regarding the same. Undoubtedly, previously also the Local Commissioner was also appointed by the Court and the Local Commissioner has also submitted the report separating the kurras of DH, but the said report has not been considered by Court and further the final decree has also not been passed by the Court on the basis of the report of the local Commissioner. The order dated 8-11-2019, was passed by the Court on an application filed by the JDs and after hearing the DH also whereby, Halqua Girdawar has again been appointed as Local Commissioner to prepare a fresh report after giving prior notice to the parties and to separate the kurras of each of the party.

6. By way of moving the present application, Ld. Cocounsel for the DH has sought for the review of the order dated 8-11-2019 on the ground that in the order, Court has not considered the earlier report of the Local Commissioner. However, as the Local Commissioner has again been appointed after hearing the learned counsel for both the parties, the previous report given by the earlier Local Commissioner shall also be taken into notice by the new Local Commissioner. However, it is made clear that the Local Commissioner shall make fresh demarcation and he will also take notice of the earlier report whereby, the Kurras of the DH was separated.

So, in the facts and circumstances of the present case and in the interest of justice, the present application is disposed of with the directions to the Local Commissioner to submit the fresh report after considering the earlier report dated 3-10-2018.

7. The Fee of the Local Commissioner has not been deposited by the JDs as per the previous order. The same be deposited within 3 days and then notice to the Local Commissioner be issued for preparing afresh report taking into consideration his previous report also. Further the Ahlmad is also directed to supply all the necessary documents pertaining to the present case for preparing the afresh report. The Local Commissioner is also at liberty to inspect the file with the prior permission of the

Court as per the previous order dated 8-11-2019.

Report of the Local Commissioner is awaited till 29-1-2019.

RenuGoyal, PCS,

CJJD/Dasuya/ 17-1-2019.

UID PB0553

Varun Talwar.