

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

130

2025:PHHC:011541



**ESA-43-2024 (O&M)
Date of decision: 27.01.2025**

RAJ KARNI ALIAS RAJ RANI

..Appellant

Versus

VED PRAKASH SETHI AND ORS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Kanwal Goyal, Advocate
Ms. Sheena Dahiya, Advocate
for the appellant.

Mr. A.K. Khunger, Advocate
for respondent No.1.

ANIL KSHETARPAL, J(Oral)

1. This execution second appeal has been filed to assail the correctness of concurrent orders passed by the Executing Court, which in appeal has been affirmed by the First Appellate Court while dismissing appellant's objection petition. The appellant herein is judgment debtor's sister. The judgment debtor contested the suit but remained unsuccessful. The regular second appeal filed by the judgment debtor was dismissed on 31.08.2017. The agreement to sell was with respect to a triple storey constructed shop. In the agreement to sell, the property was identified by giving details of the properties located on all the four sides.
2. The appellant claims that the suit property was un-partitioned share of the joint property, hence, the delivery of possession in execution of the decree is not appropriate.
3. This Court has considered the submissions of learned counsel representing the parties.



4. As already noticed, the property is located in a residential-cum-commercial area. An already constructed shop was agreed to be sold in favour of the decree holder. He has right to take possession particularly when the sale deed has already been executed. Learned counsel representing the appellant submits that only symbolic possession could be delivered because it was an un-partitioned area.

5. This Court has considered the submissions of learned counsel representing the appellant, however, finds no merit therein because the disputed property is a constructed shop, which now belongs to the respondent (decree holder) after execution of the sale deed.

6. It is further submitted by learned counsel for the appellant that the suit for partition was filed by the appellant, which has been decreed.

7. Admittedly, in the aforesaid suit, the decree holder was not party and the suit was filed during the pendency of the suit for specific performance.

8. Hence, no ground to interfere is made out.

9. Dismissed accordingly.

10. All the pending miscellaneous applications, if any, are also disposed of.

January 27th, 2025

Ay

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*