

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.3596 of 2013.
Decided on:-12.03.2015.

Bakshish Singh

.....Petitioner.

Versus

Jarnail Singh and others

.....Respondents.

CORAM: HON'BLE MR. JUSTICE DR. BHARAT BHUSHAN PARSOON.

Present:- Mr. Gurcharan Dass, Advocate,
for the petitioner.

Respondent No.1 exparte.

Dr. Bharat Bhushan Parsoon, J (Oral)

In a suit filed by plaintiff Jarnail Singh, respondent herein, for seeking declaration to the effect that he is natural born son of defendant No.1 Bakshish Singh, petitioner herein, and of Smt. Ranjit Kaur, respondent No.2 herein, and further that defendants No.3 to 6, respondents herein, are his brothers and sisters, and for seeking a decree of permanent injunction restraining the defendants from alienating mortgaging, gifting or disposing of the property in the suit, the application under Order VII Rules 10 & 11 read with Section 151 C.P.C. filed by defendants No.1 to 4 and 6 for rejection of the plaint on the ground that the suit property was self acquired of the defendants and that there is no cause of action in the suit, was dismissed vide order dated 29.04.2013, which is under challenge in this revision petition.

2. It is claimed by the petitioner that without making any discussion of the averments of the application and without considering the pleas taken therein, the application was dismissed causing great prejudice to the applicant/defendants.

3. Vide order dated 31.10.2014 respondent No.1 despite service has not appeared and thus was proceeded against exparte. Names of rest respondents i.e. respondents no.2 to 6 being proforma, were deleted from the array of respondents.

4. During the course of arguments addressed by counsel for the petitioner, paper book has been perused. It transpires that the fact whether the property in litigation is ancestral or self acquired of the defendants, is a matter which can not be decided in a summary manner. The court below was right in coming to this conclusion and had rightly not fallen prey to decide this question which at an appropriate stage would be decided by the court below, where the parties would prove their rival claims by leading evidence in support of their pleadings.

5. The application being premature and having been filed just to delay the proceedings, was rightly dismissed. The impugned order is having no infirmity either on facts or in law.

6. There is no merit in the petition; the same is hence dismissed.

(Dr. Bharat Bhushan Parsoon)
Judge

March 12, 2015
prince rana