

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.7877 of 2016(O&M)
Date of Decision: 20.09.2017

Ashok Kumar and anotherPetitioners
Vs
Bal Krishan @ Rana and othersRespondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. Gursimran Singh, Advocate
for the petitioners.

Mr. R.S. Dadwal, Advocate
for the respondents.

RAJ MOHAN SINGH, J.(Oral)

[1]. Petitioner has assailed the order dated 22.09.2016 passed by Civil Judge (Senior Division), Jagraon whereby application under Order 14 Rule 5 CPC for framing of additional issue was declined.

[2]. Plaintiffs filed a suit for separate possession by way of partition. Issue No.1 was framed to the following effect:-

“Whether plaintiff is entitled to relief of separate possession as prayed for? OPP

[3]. In the written statement, the stand of the defendant was that the land had already been partitioned between the parties.

[4]. Plaintiff filed an application for framing of additional issue i.e:-

“Whether any partition was effected and any document of partition was executed on 28.03.1971 between Ved Parkash and Tejpal? OPD”

[5]. Evidently, defendant is not seeking relief on the basis of any counter claim, therefore, when the plaintiff will lead his evidence in affirmative to prove issue No.1, then the defendant will have all the rights to rebut the claim of the plaintiff and also entitle to lead evidence in respect of his plea of previous partition.

[6]. In view of above, in my considered opinion, there is no necessity of framing any additional issue. This revision petition is accordingly dismissed.

September 20, 2017.

Prince

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No