

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.8717 of 2017
Date of Decision:- 12.12.2017

Sher Singh

.....Petitioner

Versus

Bakhshish Singh and others

.....Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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

RITU BAHRI, J. (Oral)

The petitioner has come up in revision for setting aside the two orders dated 23.11.2016 (Annexure P-7 & P-8) whereby, application moved by the petitioner for reviewing the order dated 23.11.2016 has been dismissed and order dated 21.11.2017 (Annexure P-11), the evidence of the petitioner was closed.

The brief facts of the case are that petitioner had filed a suit for declaration to the effect that he is owner in possession of the land measuring 68 Kanals 11 Marlas on the basis of agreement of partition dated 23.06.2011 executed by defendants No.1 to 4 and further a gift deed dated 25.08.2008 executed by Jangir Singh son of Sh.Kishan Singh in favour of respondents No.3 to 5 was null and void.

In the civil suit Bakshish Singh has filed written statement (Annexure P-2) and admitted that the agreement of partition dated 23.06.2001. Subsequently, he was proceeded against ex-parte and his application for setting aside the ex-parte order was also dismissed but he was allowed the join the proceedings and the petitioner after recording the

evidence made an application to summon Bakshish Singh as a witnesses and

the same has been disposed of after framing of issues on 05.01.2013. the petitioner did not give a list of witnesses and his application under Order 16 Rule 7 CPC was dismissed with cost of Rs.10,000/- and the evidence of the petitioner has been closed. Thereafter, the review application under Order 47 Rule 1 read with Section 151 CPC (Annexure P-9) has also been dismissed vide order dated 21.11.2017 (Annexure P-11).

Since the main dispute between the parties is with respect to family agreement dated 23.05.2001 and defendant No.1 has admitted this agreement in the interest of justice, he is the only last witnesses to be examined by the plaintiff, both the impugned orders dated 23.11.2016 (Annexure P-7 and P-8) and 21.11.2017 (Annexure P-11) are set aside and the present revision is allowed with one more and effective opportunity to the petitioner to summon this witness for his examination. The petitioner will deposit Rs.10,000/- as cost which had been awarded by the trial Court vide order Annexure P-7.

Disposed of accordingly.

12.12.2017
anil

(RITU BAHRI)
JUDGE

<i>Whether speaking/reasoned :</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>