

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-48 of 2018 (O&M)
Date of decision: 23.11.2022

Daya Krishan

..Petitioner

Versus

Amrit Lal and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Arnav Kumar Sood, Advocate
for the petitioner.

Mr. Liaqat Ali, Advocate
for respondent no.1 to 4.

ANIL KSHETARPAL, J(Oral)

1. While assailing the correctness of order dated 03.01.2017, passed by the Civil Judge (Jr. Divn.), Ludhiana, defendant no.1 in the proceedings for the preparation of the final decree for partition of the joint property has filed the present revision petition.

2. The relevant facts, in brief, are required to be noticed.

3. Sh. Amrit Lal and his wife-Smt. Manjit Kaur filed a suit against Sh. Daya Krishan, Sanjeev Kumar and Mukesh Kumar sons of late Sh. Ram Sarup. On the notice issued, defendant no.1 filed a written statement claiming that the suit is bad for the mis-joinder or non-joinder of necessary parties. However, he did not disclose as to how the suit is bad for mis-joinder or non-joinder of necessary parties. Defendant no.2 and 3 filed a written statement claiming that they are the owners to the extent 1/4th share each. The defendants did not contest the suit after filing the written statement. The court passed a preliminary decree on 31.10.2013. The aforesaid preliminary decree became final. An application for preparation of

the final decree was filed by the plaintiffs. Now, at the stage of passing the final decree, defendant no.1 claims that the preliminary decree was obtained by fraud as Narender Kumar, one of the Class-I heirs of late Sh. Ram Sarup has not been impleaded as a party. The Court dismissed the said objection.

4. This revision petition has been filed in order to challenge the order passed by the trial Court dismissing his objection. It is evident that the petitioner is defendant no.1 in the pending suit. He has filed the written statement. Sh. Narender Kumar has not come forward to claim any such share.

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

6. Dismissed.

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

November 23, 2022

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**(ANIL KSHETARPAL)
JUDGE**

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