

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

Civil Revision No.525 of 2015

Date of Decision: 02.02.2015

Hari Parkash

..... Petitioner

Vs.

Om Parkash and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Jagdish Manchanda, Advocate for the petitioner.

JASWANT SINGH, J. (ORAL)

The dispute is between three brothers and the sister regarding the residential house left behind by their father. One of the brothers Hari Parkash/plaintiff has filed a suit for possession of 1/3rd share by way of partition in respect of the residential house marked by ABCDEF in the Rough Site Plan attached with the plaint. It is claimed that the sister Savitri Devi/defendant No.3 has relinquished her share of the property, thus the claim for 1/3rd share.

After the evidence of both the sides were over, the petitioner/plaintiff filed an application dated 16.12.2014 (P-1) for leading additional evidence. The proposed evidence was regarding the order dated 21.04.2007, passed by learned Civil Judge (Jr. Divn.), Jagadhri in a case between the same parties wherein the other brother-Som Dutt/defendant No.2 had claimed separate possession of 1/4th share by way of partition. The other prayer is for proving the Site Plan inadvertently not proved during the evidence in affirmative by the plaintiff.

After considering the reply, the learned Civil Judge (Jr. Divn.), Yamuna Nagar at Jagadhri has dismissed the application, vide impugned order dated 06.01.2015 (**P-3**). It has been noticed that both the facts and documents in controversy were in the knowledge of the appellant/plaintiff and, therefore, denied the relief as it would lead to *de novo*/fresh trial.

Having heard learned Counsel for the petitioner/plaintiff, it has become apparent that the order dated 21.04.2007 does not advance the cause of the plaintiff in any manner, therefore, the learned Counsel does not very stress the issue. As regards, the other plea of proving the Site Plan, it is conceded that the same has been admitted by the defendants in their written statement and also there is no dispute regarding the identity of the suit property.

Hence, this Court finds no ground to interfere with the impugned order, which, admittedly, otherwise shows no due diligence on the part of the petitioner/plaintiff in leading the proposed additional evidence.

In view of the above, the present petition stands dismissed.

February 02, 2015
Gagan

(JASWANT SINGH)
JUDGE