

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

CR-6330-2015

Date of decision: 24.9.2015

Satpal and others

...Petitioners

Versus

Manphool and another

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Anil Ghanghas, Advocate for the petitioners

SNEH PRASHAR, J.

The instant revision petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 2.9.2015 passed by learned Civil Judge (Jr.Divn.), Charkhi Dadri, vide which the application filed by the petitioners seeking permission to place on record jamabandi, aks sizra and the site plan and to examine the draftsman, who prepared the site plan was partly allowed .

The relevant facts as garnered from the record are that father of respondents- plaintiffs namely Molu Ram had purchased 3 kanals land from the petitioners-defendants in the year 1996. All the

three sons of Molu Ram (plaintiff and their third brother) divided this land in equal shares i.e. one kanal each and after demarcation, constructed their respective houses. Now 12 years after construction of their houses, the respondents- plaintiffs have filed a suit for dispossession of the petitioners-defendants alleging encroachment on their land.

During evidence the petitioners -defendants filed an application for placing on record copies of jamabandi, aks sizra and the site plan, which was partly allowed to the extent that they were allowed to tender the revenue documents in the form of Jamabandi and Aks Sizra but their prayer to produce the site plan and examine the draftsman was declined by learned trial Court.

The submissions made by learned counsel for the petitioners have been heard.

Perusal of the impugned order dated 2.9.2015 shows that the case was fixed for defendants evidence and the draftsman, who prepared the site plan was present on that date. The objection of the plaintiffs- respondents was that all the documents had not been produced alongwith the written statement. That may be true, but the documents which are essential and material for just and proper decision of the case should not be shut down on mere technicalities.

The procedural laws are meant for delivery of justice and not for creating hardship for a party for some technical omission. Identification of the suit property through a site plan in the set of facts on trial will help the trial Court in appreciating the contentious issue in a better manner for rendering substantial justice. Production of the site plan will cause no prejudice to the respondents-plaintiffs as they will certainly get adequate opportunity to rebut the evidence produced by the defendants.

In Salem Advocate Bar Association, Tamil Nadu vs. Union of India AIR 2005 Supreme Court 3353, Hon'ble Supreme Court held that notwithstanding the deletion of Order XVIII Rule 17A of the Code of Civil Procedure, the Court has inherent powers to permit parties to lead evidence on such terms as may appear to be just.

Without going into the merits of the case, it shall be expedient and in the interest of justice that one effective opportunity is given to the petitioners-defendants for producing and proving the site plan in their evidence. Accordingly, the present revision petition is allowed. The order dated 2.9.2015 to the extent of declining examination of the draftsman for proving the site plan is set aside and the learned trial Court is directed to grant one effective opportunity to the petitioners-defendants to produce and prove the

aforementioned document at their own risk and responsibility subject to deposit of Rs.2000/- as cost with the District legal Services Authority, Bhiwani.

However, it is made clear that if the petitioners -defendants fail to produce the aforesaid evidence on the date so fixed, no further opportunity shall be granted to them.

24.9.2015
gsv

(SNEH PRASHAR)
JUDGE