

Civil Revision No. 4929 of 2016

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In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No. 4929 of 2016

Date of Decision: 2.8.2016

Gurdeep Kaur and another

---Petitioners

versus

Rajinder Kaur

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Mohit Garg, Advocate for the petitioners

Rekha Mittal, J.

By invoking provisions of Article 227 of the Constitution of India, the present petition has been directed against order dated 19.7.2016 (Annexure P-5) whereby application filed by the respondent for directing the petitioners to allow the draftsman to prepare site plan of the house in dispute has been allowed.

Counsel for the petitioners has submitted that respondent Rajinder Kaur has filed a suit for possession by way of partition of

1/3rd share of a residential house, detailed in head note of the plaint with consequential relief of injunction. It is argued that construction on the plot was raised by the petitioners, therefore, the respondent/plaintiff cannot claim any right in the suit house. It is further submitted that by filing the present application, the respondent wants to create her right in the suit house.

I have heard counsel for the petitioners, perused the paper book but find that contentions raised by the petitioners are not meritorious and deserve to be rejected.

Counsel for the petitioners is not in a position to convince this Court as to how preparation of site plan of the suit property would either create any right in favour of the respondent or cause prejudice to right of the petitioners to contest entitlement of the respondent in the suit house. On the contrary, as the respondent has filed suit for separate possession by way of partition of the suit house claiming herself to be co-owner to the extent of 1/3rd share which is stated to be in possession of the petitioners, there is no other way out with the respondent to

prove description of the suit property in detail except by way of seeking assistance of a draftsman who should be allowed to visit the property in question and prepare a site plan. It further appears that preparation of a site plan would rather facilitate the Court to decide the controversy completely and effectively. In view of the above, I find myself unable to accept contention of the petitioners that the impugned order suffers from any infirmity as would call for interference in exercise of supervisory jurisdiction of this Court.

For the reasons aforesaid, the petition is dismissed in limine. No order as to costs.

(Rekha Mittal)
Judge

2.8.2016

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No