

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

**CR No.5854 of 2015 (O&M)
Decided on: 14.03.2016**

Vicky

....Petitioner

Versus

M/s. Shiv Sagar Builders Private Limited and others

....Respondents

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Mr. Atul Yadav, Advocate
for the petitioner.

Mr. Jai Singh Yadav, Advocate
for respondents No.3 and 4.

REKHA MITTAL J. (Oral)

The present petition has been directed against the order dated 19.08.2015 (Annexure P-5) passed by the Civil Judge (Junior Division), Gurgaon whereby application filed by the petitioner for leading additional evidence has been dismissed.

Counsel for the petitioner would contend that the petitioner confines his prayer with regard to adducing additional evidence only qua jamabandis from the year 1950 till date. Perusal of the impugned order would reveal that the learned trial Court has not adverted to the question if evidence sought to be adduced by way of additional evidence is relevant or otherwise qua the controversy raised in the suit.

Counsel for the respondents has submitted that as there is no issue culled out in the present proceedings in regard to nature

of the suit property much less the same being co-parcenary, the jamabandis sought to be produced by way of additional evidence are not relevant for decision of the present case when otherwise the learned trial Court has rightly dismissed the application. It is further submitted that by way of additional evidence, the petitioner wants to fill up the gaps and lacuna left in his case.

I have heard counsel for the parties and perused the records.

Be that as it may, a bare reading of the impugned order would reveal that the learned trial Court has not addressed the issue of relevance of the jamabandis sought to be produced by way of additional evidence. Under these circumstances, it is difficult to appreciate if the documents sought to be produced by way of additional evidence are necessary for complete and effective adjudication of the matter in controversy or the same have been sought to be produced to fill up the gaps and lacuna in the case of the petitioner/plaintiff. With these observations, the petition is disposed of, the impugned order is set-aside with a direction to the learned trial Court to decide the application afresh, in accordance with law.

Nothing stated in this order shall be construed as an expression of opinion on merits of the case.

(REKHA MITTAL)
JUDGE

14.03.2016
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