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

CR No.482 of 2017

DECIDED ON: JANUARY 24, 2017

KRISHAN KUMAR

.....PETITIONER

VERSUS

KULDEEP KAUR

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Sunny K. Singla, Advocate
for the petitioner.

JASPAL SINGH, J (ORAL)

By virtue of instant petition preferred under Article 227 of the Constitution of India, petitioner has sought the quashing/setting aside of impugned order dated 20.08.2016 (Annexure P-6) passed by learned Additional Civil Judge (Sr. Division), Talwandi Sabo whereby, the application for directing the petitioner/defendant to produce the sale deed with regard to the land measuring 2 kanals 8 Marlas (disputed property), has been allowed.

A perusal of the plaint reveals that respondent/plaintiff has filed a suit for possession on the basis of title with regard to the land measuring 9 marlas comprising khewat No. 447, khatauni No. 880, khasra No. 85//1/1min(0-9) situated in the revenue estate of Talwandi Sabo-I.

It has been alleged by the respondent/plaintiff that the land of petitioner/defendant adjoins to the suit land and he has encroached upon the part of the land. When the case was listed for the evidence of petitioner/defendant,

an application was moved by the respondent/plaintiff directing the defendant to produce the sale deed with regard to the land measuring 2 kanals 8 marlas, as it was case of the petitioner/defendant before trial Court. In the written statement he alleged that he is the owner in possession of the land measuring 2 kanals 8 marlas adjoining to the disputed property and has raised the construction.

It is well settled proposition of law that respondent/plaintiff has to stand at his own legs and he cannot take advantage of the weakness of the opposite party. Even, if the defendant/petitioner has claimed that he is the owner in possession of the land in question on the basis of some sale deed, he cannot be directed to produce or to prove the case of the respondent/plaintiff. If he, so desires, he can do the needful to prove/establish his claim or to defeat the claim of the respondent/plaintiff.

Thus, this Court is of the considered view that impugned order (Annexure P-6) is not sustainable in the eyes of law and deserves to be set aside.

Accordingly, instant petition is allowed and order dated August 20, 2016 (Annexure P-6) is set aside. However, trial Court is directed to proceed with the case and dispose of the same, in accordance with law.

January 24, 2017

sham

(JASPAL SINGH)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>