

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

CR No.538 of 2017 (O&M).

Date of Decision: 03.02.2017.

Jagpal Singh and another

....Petitioners.

VERSUS

Dharam Pal Goyal and another

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. S.S. Dinarpur, Advocate for the petitioners.

SNEH PRASHAR, J.

The petitioners are aggrieved of the order dated 10.01.2017 passed by learned Civil Judge (Junior Division), Kurukshetra by virtue of which the application filed by the petitioners seeking direction to the respondents-plaintiffs to file the site plan of the suit property in accordance with Town Planning Scheme No.5, was dismissed.

The submissions made Mr. S.S. Dinarpur, learned counsel representing the petitioners have been considered.

Learned counsel for the petitioners contends that it is the duty of the respondents-plaintiffs to lead adequate evidence for proper identification of the property in dispute especially when the petitioners-defendants had alleged the boundaries of the suit property mentioned in the pleadings of the respondents-plaintiffs to be incorrect. The plaintiff-respondent, who appeared in the witness box, also admitted during cross-

examination that the boundaries of the suit property mentioned in the pleadings were not factually correct. In said circumstances, learned trial Court ought to have directed the respondents-plaintiffs to submit accurate site plan of the suit property in accordance with Town Planning Scheme No.5.

The argument of learned counsel for the petitioners is devoid of merit. A party to the suit cannot dictate to the opposite party to produce particular kind of evidence relating to a fact unless there is some document in possession of the other party, the existence of which is not disputed and its production is necessary for proper and complete adjudication of the case. The onus of proving identification of the property is on the respondents-plaintiffs and it is for them to decide the kind of evidence to be led for proving the same. In case, they fail to produce substantive and reliable evidence for identification of the property, it is they who shall suffer. The petitioners cannot seek direction to them to produce the kind of evidence they desire.

Thus, there being no illegality or perversity warranting interference in the order of learned trial Court, the petition is hereby dismissed.

(SNEH PRASHAR)
JUDGE

03.02.2017.
jitender sharma

Whether speaking/ reasoned : **Yes/ No**

Whether Reportable : **Yes/ No**