

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

**CR No.6093 of 2017(O&M)**

**Date of decision: 26.9.2017**

Ajaib Singh and another

....Petitioners

VERSUS

Teja Singh and others

.....Respondents

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**CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL**

Present: Mr. Parveen Kumar Garg, Advocate for the petitioners.

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**REKHA MITTAL, J.**

The present petition directs challenge against order dated 21.08.2017 passed by the Additional Civil Judge (Senior Division), Sunam whereby application filed by respondent No.1/plaintiff for permission to prepare the site plan of the house in question situated within 100 lakeer has been allowed.

Counsel for the petitioners would urge that as the respondent/plaintiff has filed a suit for partition of the property detailed in para A in head-note of the plaint and in case the respondent/plaintiff is held to be co-owner in the said property, only a preliminary decree would be passed. There is no requirement for preparing the site plan of suit house, at this stage of the proceedings. It is further argued that in case the respondent/plaintiff is successful in proving his claim to be co-owner in the suit house, he may file an appropriate application for the aforesaid purpose at the stage of preparing final decree, in order to enable the Court to decide the mode of partition.

I have heard counsel for the petitioners, perused the paper-book and various annexures appended with the petition.

As per plea of the petitioners, they are in occupation of the suit house and the respondent/plaintiff has no concern with the suit property. It is a matter of evidence, if the respondent/plaintiff would be successful to establish his claim of being one of the co-owners in the suit house and thus entitled to get partition thereof. The boundaries of the house in question have been detailed in the headnote of the plaint but the respondent/plaintiff could not give its detailed description as he could not prepare a site plan thereof because of the suit house being in possession of the defendants. Counsel for the petitioners is not in a position to advance any meaningful arguments as to what prejudice would be caused to the petitioners in case the order passed by the trial Court is affirmed and the respondent/plaintiff is permitted to get prepared a site plan of the house in question so that in future there is no dispute between the parties with regard to its identity and construction existing at the spot.

Counsel for the petitioners, in response to a query by the Court, has agreed that the order impugned may be modified by permitting the petitioners to get prepared a site plan of the suit house and place it on record. If such an exercise is undertaken by the petitioners, it would rather save the respondent/plaintiff from inconvenience for engaging a draftsman and incurring expenses for getting the site plan prepared. Under the circumstances, it would be appropriate that the order impugned is modified to the following effect;-

1. The petitioners shall get prepared a scaled site plan of the suit property by availing the services of a draftsman.

2. The site plan would be submitted before the Court within a period of one month from the date of receipt of certified copy of the order.
3. The respondent/plaintiff would be at liberty to file an application before the trial Court in case he has any grievance with regard to correctness of the site plan placed on record by the petitioners.
4. Any such application filed by the respondent/plaintiff would be decided by the trial Court in accordance with law.

For the foregoing reasons, the petition stands disposed of in the aforesaid terms.

**SEPTEMBER 26, 2017**  
'D. Gulati'

**(REKHA MITTAL)**  
**JUDGE**

Whether speaking/reasoned : yes/no

Whether reportable : yes/no