

CR No. 8558 of 2017
Date of Decision: 7.12.2017

Jatinder Singh

---Petitioner

versus

Sukhdev Singh

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Gagandeep Singh Sirphikhi, Advocate
for the petitioner**

Rekha Mittal, J.

The present petition directs challenge against order dated 12.10.2017 (Annexure P-5) passed by the Civil Judge (Junior Division), Batala whereby application filed by the petitioner/plaintiff seeking direction to the defendant to allow the plaintiff and his draftsman to inspect the spot and prepare the site plan, has been dismissed.

The sole submission made by counsel for the petitioner is that in case the respondent-defendant makes any addition/alteration in the property, subject matter of the lis, it may create some difficulty in future to establish identity of the property at the time of execution of the decree that is likely to be passed in favour of the petitioner. It is further submitted that in the agreement, there is reference to two rooms, one bath room and one kitchen but the same have not been described in the rough site plan.

The trial court, in the concluding para of the order impugned has noticed that it is evident from the plaint that property in dispute is a constructed house having its boundaries as mentioned therein, from which

the suit property can be very well identified. There is no denial on the part of defendant regarding identification of the said property. Under the circumstances, it is not required to produce the site plan with exact measurements of the suit property.

Counsel for the petitioner has not disputed correctness of factual observations made by the trial court that the respondent-defendant has not raised any issue with regard to identity of the suit property or disputed correctness of the rough site plan appended with the plaint. As there is no issue qua identification of the suit property or its boundaries, it is difficult to accept plea of the petitioner that the trial court has committed an error by refusing to accept prayer of the petitioner. On the contrary, if the petitioner has any apprehension that the respondent may change existing status by making addition/alteration, he can well resort to appropriate remedy, in accordance with law, so that status quo with regard to the existing scenario of the suit property is maintained till final adjudication of rights of the parties. In this view of the matter, I do not find any reason to intervene.

Dismissed.

(Rekha Mittal)
Judge

7.12.2017

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No