

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

CR-2394-2022
Decided on : 19.09.2022

Sandeep Lohia

..... Petitioner

Versus

Shankar Lal and others

..... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. S.K.Arora, Advocate
 for the petitioner.

Manjari Nehru Kaul, J.(Oral)

The petitioner is impugning the order dated 28.04.2022 (Annexure P-1) passed by Addl. Civil Judge (Sr. Divn.), Jaitu in CS/2729/2013 dated 25.06.2011 titled as Sandeep Lohia vs. Shankar Lal and others whereby the application filed by the petitioner under Order 11 Rule 12 CPC r/w Section 151 CPC, was dismissed.

Learned counsel for the petitioner submits that the trial Court while passing the impugned order failed to appreciate that the petitioner was neither shown the alleged property mentioned at place No.4 in the head note of the plaint nor had been delivered the possession thereof. Learned counsel submits that it was the pleaded case of the petitioner that no such property as alleged was in existence, therefore, if it indeed existed then there should have been some record qua its title and also site plan to show the possession of respondents No.1 and 2. Learned counsel further submits that it was thus, necessary to direct respondents No.1 and 2 to produce the

title record along with the site plan so as to facilitate him in the identification of the property in question. It is further submitted that the trial Court ignored the underlying objective of Order 11 Rule 12 CPC, which is to ascertain the existence, location, custody, availability and utility of the documents sought to be discovered in relation to the matters in question in the suit for fair disposal thereof.

Heard learned counsel and perused the relevant material available on record.

The petitioner in his plaint has challenged the validity of the family settlement dated 01.09.2008 and has also disputed the existence of the property in question, which has fallen to his share vide aforementioned family settlement. A perusal of the impugned order reveals that respondents No.1 and 2 had annexed the municipal record pertaining to the property in question along with their reply. As per the record, the municipal number for the assessment year 2008-09 of the property was B/5/208 and B/5/209. Therefore, in the aforesaid circumstances, this Court fails to comprehend as to why respondents No.1 and 2 were required to be directed to facilitate the petitioner in locating the property when the same already stands duly entered in the municipal records.

Respondents No.1 and 2 in their reply to the application have controverted being in possession of the title, documents of the property. The petitioner has not placed anything on record to show that the title documents are in possession of the respondents. Still further, as per the latest property tax records, the sister of the petitioner is shown as the owner of the property. Hence, the trial Court in view of the aforementioned facts

has rightly declined the prayer of the petitioner while passing the impugned order.

As a sequel to above, the present petition being devoid of any merits, stands dismissed.

(MANJARI NEHRU KAUL)
JUDGE

19.09.2022
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Whether speaking/reasoned:	Yes/No
Whether reportable :	Yes/No