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Krishan Kumar Vs Sughan Chand and Others

CR No. 3832 of 2011 (O and M)

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Sept. 14, 2012

Hon'ble Judges: A.N. Jindal, J

Bench: Single Bench

Advocate: J.S. Khiva, for Mr. P.P. Sharma, for the Appellant; M.K. Singla, Advocate, for the Respondent

Judgement

A.N. Jindal, J.
This petition assails an order dated 24.05.2011 (Annexure P-5) passed by the Additional Civil Judge (Senior Division),

Moonak, dismissing the application filed by the plaintiff-petitioner (hereinafter referred as "the petitioner") for leading additional evidence. This is a

suit for dissolution of firm M/s Ganesh Oil Mills, Khanauri Kalan and for separate possession of land by way of partition of "gair mumkin" land

measuring 8 Marlas comprising of Khasra No. 71//19/2/2 (0-8), situated in the revenue estate of village Khanauri Kalan, to the extent of 1/3rd

share of petitioner, 1/3rd share of defendant-respondent No. 1 and 1/3rd share of defendant-respondent No. 2. By way of additional evidence,

the petitioner wants to prove partnership deed, site plan and jamabandi, which could not be produced earlier. The relief of separate possession

was sought on the basis of ownership, for which, site plan as well as copy of the Jamabandi could be said to be relevant, but the petitioner has

failed to establish the relevancy of partnership deed. As such, both the documents being material could be permitted. Moreover, the copy of

jamabandi is per se admissible and could be allowed to be proved by way of additional evidence. However, no comments could be made about

grant of permission to lead additional evidence qua partnership deed, as it is not known, on what ground the earlier application for secondary

evidence has been refused.

2. As such, this petition is partly accepted; the impugned order is set aside and the petitioner is only permitted to prove site plan and copy of

Jamabandi by way of additional evidence. The counsel for the petitioner has brought to my notice that the Court has not passed the detailed order

while deciding the application for secondary evidence. In that situation, the trial Court is directed to pass a specific order on the application for

secondary evidence.