

Cr No.6332 of 2011. Vs. Cr No.6332 of 2011.

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Court : Punjab and Haryana

Decided On : Feb-08-2013

Appellant : Cr No.6332 of 2011.

Respondent : Cr No.6332 of 2011.

Judgement :

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH CR No.6332 of 2011.

Date of Decision :

8. 2.2013.

Dharam SinghPetitioner Versus Municipal Council, KaithalRespondent
CORAM : HON'BLE Mr.JUSTICE NAWAB SINGH Present: Mr.Upender Prasar, Advocate and Mr.Saurabh Garg Advocate, for the petitioner.

None for the respondent.

NAWAB SINGH J.(ORAL) This plaintiff's revision is directed against the order dated October 4th, 2011 passed by Additional District Judge, Kaithal whereby application filed by the respondent-defendant under Order 41 Rule 27 CPC was allowed.

2. Dharam Singh plaintiff-petitioner took land measuring 8 acres 1 kanal and 8 marlas on lease from Municipal Council, Kaithal defendant-respondent for the years 1998-99, 1999- 2000, 2000-01 and 2001-02.

In the year 2001, he came to knot that the land given to him on lease was No.8 acres 1 kanal 8 marlas rather it was 15 kanals 4 marlas less.

He filed a suit seeking decree of mandatory injunction against the defendant-respondent directing it to refund the lease amount charged for the area of 15 kanals 4 marlas with effect from 1998-99 to 2001-02 with interest at the rate of 18% per annum.

The suit was decreed.

3. The respondent-defendant preferred an appeal.

During pendency of appeal, respondent-defendant moved an application under Order 41 Rule 27 CPC for leading additional evidence.

It was pleaded in the application that to clarify that the land was not inadequate and the lease money was being charged CR No.6332 of 2011.

(2) as per the actual measurement of land, production of Aksh Shajra (Field map) depicting details of the plot carved out in the patti and copies of auction registers for the years 2009-10 was very much necessary.

The said application was allowed by the Appellate Court.

Against which the present revision has been filed.

4. The dispute between the parties is to the limited extent was that the actual land measuring 8 acres 1 kanal 8 marlas was not leased out rather it was 15 kanals 4 marlas less.

To prove the same, the best piece of evidence would be the field map which the Municipal Council not wants to prove by leading additional evidence.

In view of this, the evidence which is sought to be produced would enable the Appellate Court to adjudicate the matter in a more complete and effective manner.

So, the revision petition is dismissed.

8.2.2013.

(NAWAB SINGH) SN JUDGE

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