

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

Civil Revision No.1254 of 2015

Date of Decision: 21.02.2015

Sh. Ram Gopal

..... Petitioner

Vs.

Smt. Sucheta

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Amit Choudhary, Advocate for the petitioner/defendant.

JASWANT SINGH, J. (ORAL)

The defendant/vendor is in revision aggrieved by the order dated 09.01.2015 (P-2), passed by the learned Civil Judge (Jr. Divn.), Faridabad, whereby the application of the plaintiff for leading secondary evidence qua the agreement to sell has been allowed.

Having heard learned Counsel for the petitioner, this Court is of the opinion that the present revision is totally misconceived.

It is apparent that the respondent/plaintiff has filed a suit for specific performance and permanent injunction with the averment that the defendant/vendor had executed an agreement to sell dated 26.03.2007 and received an earnest amount of total ₹ 9 Lacs towards sale of the suit land. Defendant/vendor has totally denied the execution of the agreement to sell. It is also not in dispute that an F.I.R. qua the transaction was lodged and the original

of the agreement to sell along with receipts of payments were taken in possession by the police, vide a seizure memo. Since the said documents now were no longer available on the police files, the learned trial Court on satisfying itself regarding the availability of the said documents in original vide the seizure memo has rightly permitted the leading of secondary evidence.

At the time of hearing, on a pointed query, the photocopy of the agreement to sell was produced and a mere glance of the same shows that it bears the photograph of the defendant/vendor and thumb marked across the photograph on the agreement to sell inked on the stamp paper.

In view of the above, this Court finds no ground to interfere with the impugned order. Dismissed with costs of ₹ 10,000/-, to be deposited with District Legal Services Authority, Faridabad.

February 21, 2015
Gagan

(JASWANT SINGH)
JUDGE