

CR No.161 of 2013 (O&M)

Decided on: April 6, 2015

Surinder Singh

.... Petitioner

Versus

Baltej Singh

..... Respondent

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

Present: Mr. Balbir Singh, Advocate,
for the petitioner.Mr. Harkaran Singh, Advocate for
Mr. B.S. Bhalla, Advocate
for the respondent.M.M.S. BEDI, J (ORAL)

The defendant-petitioner had filed an application for production of original agreement to sell dated 17.06.2006 in order to enable him to bring it to the notice of the Court that he had returned double of the earnest money by making a writing on the last page of the agreement to sell. The plaintiff-respondent placed on record original agreement to sell containing five pages on 31.05.2007 as such the application for production of original agreement to sell was disposed of. Defendant-petitioner has assailed the said order.

Learned counsel for the petitioner has submitted that a perusal of reverse side page of the agreement to sell, indicates that there were six pages of the agreement to sell but the sixth page containing the writing of cancellation of the agreement to sell, on receipt of double of earnest money, has been withheld by the plaintiff-respondent, causing prejudice to the defendant-petitioner. It is contended that a direction should have been given to the plaintiff-respondent to produce the complete agreement to sell.

I have heard learned counsel for the petitioner-defendant as well as plaintiff-respondent.

The order dated 31.05.2007 has been challenged after five years when the trial has reached the stage of production of defendants' evidence.

Counsel for the defendant-petitioner submits that on account of non-production of the complete agreement, the defendant-petitioner will not be able to prove the fact that the agreement has been cancelled on receipt of double the amount of earnest money by the plaintiff-respondent.

After hearing learned counsel for the defendant-petitioner as well as counsel for the plaintiff-respondent, I am of the opinion that the revision petition after the period of five years is not maintainable. However, it is observed that in case the trial Court is satisfied that there were six pages of agreement to sell and the last page has been withheld by the plaintiff-respondent while producing the agreement to sell, it will be open to the said Court to draw adverse presumption against the plaintiff-respondent as per provisions of law to meet with the defendants plea as raised by him, however, at the time of appreciation of evidence at an opportune time.

Besides this, it will be open to the defendant-petitioner to seek production of the original document by adverting to the provisions under Order 11 Rule 14 CPC.

With the above observation, I do not find any ground to entertain this revision petition at belated stage.

Disposed of.

(M.M.S. BEDI)
JUDGE

April 6, 2015

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