

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No.1820 of 2015

Date of Decision.13.03.2015

Smt. Balwinder Kaur

.....Petitioner

Versus

Joginder Singh

.....Respondent

Present: Mr. Hardeep Singh, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

-. -

K. KANNAN J. (ORAL)

1. The petition is against the order admitting secondary evidence of an agreement which is sued upon for specific performance. It appears that the plaintiff is unable to produce the original document on the ground that two other persons who were parties of the document were shown having the document in their custody and they have themselves filed a suit previously for specific performance and obtained a withdrawal of the suit.

2. Even an application for reception of secondary evidence through a petition is not necessary as I have held in **Kaushalya Bai @ Koshalia Devi Vs. Jangir Singh and others** in C.R. No.6632 of 2012 decided on 07.11.2012 that there is no need for filing an application for reception of secondary evidence and if any person who has only a document as secondary evidence and gives the reasons or justification

for non-production of the original as set out under Section 65 of the Indian Evidence Act, the Court will receive the same and allow for the respondent to cross-examine him with reference to that evidence. At the time of passing of the judgment, the Court will examine whether the circumstances mentioned under Section 65 of the Evidence Act had been properly elicited. If it is properly elicited, the document will be relied upon and judgment delivered on that basis. If the circumstances are not proved in the manner it is necessary, then the Court will eschew the document. It is trite law that mere reception of a document in evidence will not mean proof of the same and the document will have to be proved in the manner that is required by appropriate evidence.

3. In this case, I asked the counsel whether the document itself is admitted or not by the defendant. The counsel is unable to give me any response. I was only trying to secure an additional information if there was no objection at all for reception of secondary evidence. I find none.

4. The revision petition is dismissed.

(K. KANNAN)
JUDGE

March 13, 2015
Pankaj*