

209.

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

Civil Revision No.158 of 2014 (O&M)

Date of decision: 22.12.2015

Balbir Singh and others

... Petitioners

versus

Kamlesh and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Lokesh Sinhal, Advocate,
for the petitioners.

Mr. Nandan Jindal, Advocate,
for respondent No.1.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ?No.
3. Whether the judgment should be reported in the digest ?No.

K.Kannan, J. (Oral)

1. The revision petition is against an order rejecting permission to file secondary evidence of a Will. The document filed in court was a photocopy of an alleged certificated copy. The petitioner has adopted a procedure which is unnecessary, that gives room for this civil revision. There cannot be a photocopy of a copy. It does not answer the requirements of Section 63 of the Evidence Act. There is not even a need to seek for permission, for, what is necessary is that there is a ground mentioned for production of secondary evidence which shall be anyone of them detailed under

Section 65 of the Evidence Act. The document already produced being not a secondary evidence itself, the petitioner will be at liberty to produce the certified copy, duly certified as such and give also evidence of any of the justifiable circumstances for reception of secondary evidence if such evidence is produced. It shall be received and assigned as exhibit number and the respondent will be at liberty to cross-examine the party tendering the same, that none of the circumstances mentioned under Section 65 exist and that there was no justifiable ground for production of secondary evidence. The court will consider the evidence given by the party as regards any of the circumstances under Section 65 and take a judgment on such evidence along with other finding at the time when the judgment is pronounced. The reception of document and assignment of exhibit number do not dispense with proof of the Will and the court shall examine whether such proof was offered before it and place any reliance on the same at the time of delivery of the judgment.

2. The order already passed is set aside and the trial court will follow the procedure as detailed above and proceed in accordance with law.

3. Revision petition is allowed on the above terms.

(K.KANNAN)
JUDGE

22.12.2015
sanjeev