

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

C.R. No.1896 of 2015

Date of Decision.18.03.2015

Kamlesh Rani

.....Petitioner

Versus

Ravinder Kumar and others

.....Respondents

Present: Mr. Amar Vivek, 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?

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K. KANNAN J. (ORAL)

1. The petitioner adopts a procedure which is superfluous. The petitioner is aggrieved that a Will which is irrelevant for testing the award which is assailed by means of objection under Section 34 of the Arbitration and Conciliation Act is brought without adequate pleadings or setting out relevance of such a Will for adjudicating on the validity of the order. Further the objection is that the secondary evidence of Will is sought out to be produced which is also impermissible.

2. If the Will is wholly irrelevant for the purpose of consideration of whether the award was valid or not and the petitioner has taken on objection, the Court still takes a view that the Will is relevant, I will find nothing for intervention in revision. It will be premature to test the correctness of the order passed by the Judge. If the petitioner's own objection regarding the relevance of the document has been held against him now, he may be entitled to canvass the

correctness of such a finding or any evidence taken in that regard when he will have an occasion to challenge any finding rendered by the Court on such an observation already made that the Will was relevant for the purpose of the case. Even the issue of whether the secondary evidence could be permitted or not, cannot be brought in a revision and this Court has examined the issue relating to how an objection could be taken as regards the reception of secondary evidence. In Atma Nand (deceased) through LR Vs. Ram Sarup (deceased) through his LRs 2012(1) PLR 440, Dr. S.P. Arora Vs. Satbir Singh 2010(5) RCR (Civil) 350 and Simar Pal Singh Vs. Hakam Singh 2009(2) PLR 562, this Court has held that merely because a document is received, it cannot be taken that the proof of its contents is possible, for, the party will still be entitled to urge that the document could not have been received and there was no justification made in the manner required under Section 65 of the Indian Evidence Act for reception of secondary evidence. The Court is bound to examine the objections again at the time of arguments and any passed now at this stage cannot be taken as excluding the right of the petitioner to contest of either the relevance of the Will or admissibility of the document which according to him is brought before Court without sufficient justification under Section 65 of the Evidence Act.

3. With these observations, the revision petition is disposed of.

(K. KANNAN)
JUDGE

March 18, 2015
Pankaj*