

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

C.R. No.1913 of 2013

Date of Decision.16.03.2015

Mohinder Singh and othersPetitioners
Versus

Dome Real Estate Private LimitedRespondent

Present: None for the petitioners.

Mr. Parveen Kumar, respondent in person.

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. There is representation for the petitioner. The respondent is present in person.

2. The revision petition is against the order rejecting an application for secondary evidence. The plaintiff was seeking for production of secondary evidence on a claim that an agreement executed between the parties on 02.09.2004 was actually in the possession of the defendant in original and he had only a photocopy of the same. If the plaintiff is, therefore, giving an explanation for non-production of the original, namely of the possession of the original document in the custody of the adversary, then it must only be taken that he had laid a foundation for the production of secondary evidence.

I have already held in several judgment that it is not not necessary to even file an application for production of secondary evidence, for, it is a

matter of evidence. If the defendant were to contend that the document was never executed at all and he does not have the custody of the original document, he will be at liberty to cross-examine the plaintiff as regards the contention raised in the application and deny that there was any such document. I cannot allow for objection against production of secondary evidence as not requiring any adjudication at all. A mere fact that the document is received will not amount to proof of the document. The Court will exhibit the document subject to objection taken by the defendant and allow the defendant to cross examine and will render a judgment referring to the admissibility or otherwise in the manner laid down by this Court 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.

3. Since the matter raised in the civil revision is squarely governed by law, I would not think that the case be unnecessarily stalled by a revision against an interim order. The order passed by the Court below is patently incorrect and against the law laid down by this Court. The revision petition deserves to be allowed and hence allowed.

(K. KANNAN)
JUDGE

March 16, 2015
Pankaj*