

CR-2208-2015 (O&M)

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

**CR-2208-2015 (O&M).
Decided on: March 30, 2015.**

Pardeep Kumar Mittal and another

..... Petitioner(s)

Versus

Ramesh Kumar Mittal

..... Respondent(s)

*** * ***

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

**PRESENT Mr.Sherry K. Singla, Advocate,
for the petitioners.**

M.M.S. BEDI, J (ORAL)

Vide impugned order the plaintiff-respondent has been permitted to lead secondary evidence to establish a receipt dated 15.3.2011.

Counsel for the petitioner submits that the photocopy of the receipt has been fabricated with an objective to gain the benefit of limitation. It is urged that the fabricated receipt sought to be established by way of secondary evidence is an attempt to defeat the objection of the defendant regarding the suit for recovery being not within the period of limitation.

I have heard the learned counsel for the petitioner and gone through the impugned order. Vide impugned order only a permission has been given to the plaintiff-respondent to lead secondary evidence pertaining to the alleged receipt dated 15.3.2011

but the onus of the plaintiff-respondent to establish the execution, existence, relevancy and admissibility has not been waived off. He would be required to establish the execution of the original receipt, its existence, loss and relevance before it is admitted in evidence.

Counsel for the petitioner has vehemently urged that a photostat copy of the receipt cannot be permitted to be proved and referred to the judgment in **Smt. J.Yashoda Vs. K.Shobha Rani, 2007 (2) RCR (Civil), 840**, to contend that photocopies if are not comparable with the original copies, the same cannot be admitted in evidence as secondary evidence.

I have heard the learned counsel for the petitioners and I am of the opinion that the plea regarding non-existence of the original of the receipt dated 15.3.2011 has to be established by the plaintiff-respondent before any reliance is placed by the trial Court on the photocopy of the receipt at the time of final decision.

As the rights of the defendants-petitioners have been safeguarded, I do not find any ground to interfere in the order Annexure P8. The petition is dismissed. However, it will be open to the defendants-petitioners to challenge the execution, admissibility, and relevance etc. of the receipt regarding which secondary evidence has been permitted to be produced.

March 30, 2015.
rka

(M.M.S. BEDI)
JUDGE