

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 4201 of 2014 (O&M)
Date of decision: 04.05.2015

Mahabir Singh @ M.S. Bhamla

... Petitioner

versus

Karan Singh and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Sanjay Vij, Advocate for the petitioner.

Mr. Sudhir Aggarwal, Advocate for the respondents.

K.Kannan, J.

The revision is at the instance of the plaintiff who had taken a plea that the defendant had obtained an alleged lease by practice of impersonation of the plaintiff's mother. The plaintiff had sought the production of original document from the custody of the respondents which ought to bear not merely the signature of the plaintiff's mother, if it were true but would also contain the photographs of the executant affixed on the page where the registration endorsement was made. The plaintiff was therefore trying to prove that the identity of the person who admitted registration could be very easily made by comparison with admitted images of the plaintiff's mother.

Since, the defendant did not produce the document on a plea that the document had been lost, the plaintiff produced the certified copy of the lease deed and also examine the registering officer. It was elicited in evidence that it was not possible to see actual image of the photographs in the copy of the document, and therefore, the plaintiff had sought for summoning of the original register from the registering officer containing the photographs of the executant. This was declined. When I ask the counsel as to why the document should

not be produced, the counsel appearing for the respondent would submit that the plaintiff had already availed to himself several opportunities to produce the evidence and then the certified copy of the lease deed had already been produced and the witness was also examined, there was no necessity to produce the original register from the registering officer's record.

I find the order passed by the Court below to be wrong and the justification made by the counsel appearing for the respondents to be a fragile. If the contention was that impersonation had been practiced the best of evidence must be possible. If the defendant who ought to have the custody of the document will have a defence that the document itself is missing, the Court will draw appropriate inference for non-production and assess the truth of the assertion of loss. If the plaintiff was therefore trying to secure the next best evidence which was possible, the Court must have assisted the process to get at the truth. If the image in the certified copy is not clear enough, the plaintiff must have been supported in his endeavour to secure the best evidence in Court by summoning the original register from the registering officer's office.

The impugned order is set aside and the revision petition is allowed accommodating for the plaintiff's request in the manner that he did through the application, with cost of ₹ 3,000/- against the respondent.

(K.KANNAN)
JUDGE

04.05.2015

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