

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 4433 of 2014 (O/M)
Date of decision : 18.8.2015

Malkiat Singh and others

..... Revisionists

Versus

Gurminder Singh

..... Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Puneet Jindal, Senior Advocate, with,
Ms. Sakshi, Advocate, for the revisionists.
Respondent ex-parte.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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KULDIP SINGH, J. (ORAL)

Impugned in the present revision is the order dated 5.4.2014, passed by the learned Civil Judge (Junior Division), Jalandhar, vide which the secondary evidence of agreement of sale dated 14.3.2003 has been allowed to the defendant.

Learned senior counsel for the revisionists has argued that in this case, it was pleaded by the defendant before the lower Court that the original agreement is not traceable. He availed 7/8 opportunities without examining any witness and thereafter filed the present application. It was not alleged that the original agreement

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has been lost. Therefore, without fulfilling the ingredients of Section 65 of the Indian Evidence Act, no secondary evidence could be allowed.

In the present case, respondent has not turned up before this Court and he has been proceeded against ex-parte, vide order dated 8.12.2014.

I have heard the learned senior counsel for the revisionists and have also carefully gone through the file.

I am of the view that the interest of justice would be met, if the defendant is directed to fulfil the ingredients of Section 65 of the Indian Evidence Act, while proving the said agreement. As such the impugned order is amended and it is ordered that the secondary evidence allowed by the lower Court shall be subject to the condition that defendant will have to prove the existence and loss of the original agreement, the evidence regarding which shall be led with the main case. If the existence and loss of the original agreement is established, only then agreement dated 14.3.2003 shall be admitted to evidence, otherwise the same shall be discarded.

The revision is allowed to the above-noted extent.

Application, if any, also stands disposed of.

(KULDIP SINGH)
JUDGE

18.8.2015
sjks