

In the High Court of Punjab and Haryana at Chandigarh

**Civil Revision No. 4788 of 2013
Date of Decision: 7.4.2015.**

Jagtar Singh

.....Petitioner

Versus

Jugraj Singh and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Rajan Bansal, Advocate
for the petitioner.

Mr. Kashish Garg, Advocate
for respondents No. 1 to 4.

None for respondents No. 6 to 9.

SABINA, J.

Petitioner has filed this petition under Article 227 of the Constitution of India challenging the order dated 29.5.2013 (Annexure P-3) whereby application moved by the respondents/defendants for permission to lead secondary evidence qua agreements dated 8.2.2006 and 30.10.2006, was allowed.

I have heard the learned counsel for the parties and have gone through the record available on the file carefully.

Plaintiffs had filed suit for specific performance of agreement to sell dated 30.5.2007. Defendants in their written statement pleaded the existence of agreements dated 8.2.2006 and 30.10.2006 and admittedly it was averred in the written statement that photocopies of the agreements had been placed on record.

However, admittedly, till date photocopies of the agreements dated

8.2.2006 and 30.10.2006 have not been placed on record before the Trial Court. The said fact is also evident from the impugned order dated 29.5.2013. Since the defendants had failed to produce on record photocopies of the documents, sought to be proved by them by leading secondary evidence, the learned Trial Court fell in error in allowing the application filed by the defendants to enable them to prove the agreements in question by leading secondary evidence. In these circumstances, the impugned order is liable to be set aside.

Accordingly, this petition is allowed. Impugned order dated 29.5.2013 (Annexure P-3) is set aside. Consequently, application moved by the defendants for permitting them to lead secondary evidence qua agreements dated 8.2.2006 and 30.10.2006, is dismissed.

**(SABINA)
JUDGE**

April 07, 2015
Gurpreet