

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

CR No.5141 of 2015
Date of decision : 14.08.2015

Kuldip Singh

...Petitioner

Versus

Prabhjot Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

1. Whether reporters of local newspapers may be allowed to see judgment ?
2. To be referred to reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. Narinder Sharma, Advocate for the petitioner.

AMIT RAWAL, J. (Oral)

The petitioner/defendant has filed the present petition for setting aside the impugned order dated 05.05.2015 (Annexure P-1), whereby the application (Annexure P-2) filed on behalf of respondent/plaintiff for allowing to prove the Registered Will dated 08.09.2006 by way of secondary evidence, has been allowed.

Mr. Narinder Sharma, learned counsel appearing on behalf of petitioner submits that story put forth on behalf of the respondent/plaintiff is apparently unbelievable, basically a concocted one, yet the trial Court has not taken into consideration the factum of loss of Registered Will while

allowing the application & should have taken into consideration the provision of Section 65(c) of the Indian Evidence Act and as well as settled law, because for allowing the application for secondary evidence its existence & the loss of document has to be proved. Since, it is Registered Will and had been lost, plaintiff has to produce the same in accordance with law, only then secondary evidence should have to be allowed.

I am in agreement with submission of the learned counsel for the petitioner/defendant. Accordingly, impugned order dated 05.05.2015 (Annexure P-1) is modified by issuing direction that respondent-plaintiff shall be permitted to lead secondary evidence vis-a-vis Registered Will dated 08.09.2006, which would be subject to proving its loss as it is statutory requirement of law. The modification, aforementioned shall not prejudice rights of the respondent/plaintiff.

With the aforementioned modification, present petition stands disposed of.

14.08.2015

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**(AMIT RAWAL)
JUDGE**