

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No. 5486 of 2013
Date of Decision : March 18th, 2015

Raghbir Singh

.... Petitioner

Versus

Gurmeet Kaur and others

.... Respondents

CORAM : HON'BLE MR. JUSTICE DR. BHARAT BHUSHAN PARSOON

Present Mr. Suvir Kumar, Advocate,
 for the petitioner.

 Mr. Prateek Pandit, Advocate
 for respondent No.1.

Dr. BHARAT BHUSHAN PARSOON, J.

In this revision petition, the defendant, petitioner herein, is aggrieved of order dated 3.8.2014 [Annexure P/5] of lower Court, whereby his application for leading secondary evidence was declined.

2. Possessed with a photocopy of receipt dated 14.07.2004, it is claimed that the original of the same was in possession of Avtar Singh, father of the defendant-petitioner, who has since died. It is further claimed that the original receipt could not be traced out.

3. The prayer of the defendant-petitioner was strongly resisted by the plaintiff-respondent No.1 herein.

4. Basing his claim on agreement to sell dated 21.5.2003, the respondent-plaintiff has sought specific performance of the same in a suit which is pending adjudication in the Court below.

5. The defendant has denied execution of the agreement to sell

claiming it to be forged and fabricated and has also denied execution of the receipt for which now, secondary evidence is sought to be led.

6. When questioned, learned counsel for the petitioner could not be able to show under what circumstances, the alleged receipt dated 14.7.2004 was executed after more than one year of the execution of the agreement to sell dated 21.05.2003. It is claimed by the defendant that it was a transaction of loan of Rs.3.00 lakhs and payment was made on 14.07.2004. What was the occasion to retain only photocopy of the receipt has also not been disclosed when loss of original receipt is not established on record. It is also urged by learned counsel for the respondent-plaintiff that during the tenure of his life when Avtar Singh was alive, he had never attached the original receipt of 14.07.2004 with his written statement which he was required to do in terms of the provisions of Code of Civil Procedure, 1908.

7. When neither the existence of original document has been established nor any circumstances are shown to be there to account for possession of only photocopy of receipt dated 14.7.2004 with the defendant, petitioner herein, no grounds in terms of Section 65 of the Evidence Act for grant of permission for leading secondary evidence are made out. The impugned order does not call for any interference in the revisional jurisdiction by this Court.

8. No merit. Dismissed.

(Dr. BHARAT BHUSHAN PARSOON)
JUDGE

March 18th, 2015
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1. Whether Reporters of local papers may be allowed to see the judgment? Yes
2. Whether to be referred to the Reporters or not? Yes
3. Whether the judgment should be reported in the Digest? Yes