

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

Civil Revision No.6450 of 2015

Date of decision:30.09.2015

Raghbir Singh

... Petitioner

versus

Bhim Singh

.... Respondent

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr.Ajay Ghangas, Advocate,
for the petitioner.

K.Kannan, J. (*Oral*)

1. The respondent has adopted a procedure which was needless by applying to the court through an application for production of secondary evidence. The petitioner objected to the same contending that there was no reference to the existence of the document in the written statement and the plaintiff-petitioner was not even confronted by the same through the entire course of his evidence. The secondary evidence was now sought to be produced on a plea that the originals are with the plaintiff. There is no basis for such a claim.

2. If there is no basis for the defendant to say that the originals are with the plaintiff or if the plaintiff denies that the originals were ever with him, it is an important matter that has to be elicited in the cross-examination. Section 65 of the Evidence Act

merely enacts a rule of procedure and the circumstances when the secondary evidence can be received and there is no statutory compulsion to a party to apply to the court to seek for such permission. A mere marking of the document or assigning the exhibit number does not dispense with the requirements of law under Section 65 of the Evidence Act for giving the basis for secondary evidence and the correctness of the statement for their production could be only tested in the cross-examination and cannot be prejudged by the court. Even if they are received, the court will still examine at the time of conclusion of arguments whether the party relying on secondary evidence has established sufficient ground under Section 65 of the Evidence Act for reception of the document and rely on the same or reject the documents depend on the findings rendered by the court at the conclusion of arguments and while delivering the judgment.

3. I will make no intervention with the order already passed allowing for reception of secondary evidence in the course of trial.

4. The revision petition is dismissed with the above observations.

(K.KANNAN)
JUDGE

30.09.2015
sanjeev