

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

CR No. 647 of 2013(O&M)

Date of Decision: December 03, 2015

Manohar Lal Bangia

...petitioner

vs.

State of Haryana & others

Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Arvind Rajotia, Advocate
for the petitioner.

Mr. Samarvir Singh, DAG, Haryana.

1. *Whether Reporters of Local Newspapers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

Kuldip Singh J.(Oral)

Impugned in the present revision is the order dated 24.01.2013(Annexure P-6) passed by learned Civil Judge (Jr. Divn.), Hisar vide which the application of the plaintiff/petitioner for permission to lead secondary evidence to prove the drawing No.DTP-782/70(H) dated 27.11.1970 was dismissed. The certified copy of the drawing was sought to be summoned from another file “Kashmiri Lal versus Haryana State” pending in the Court of Learned Civil Judge (Jr. Divn.), Hisar.

I have heard learned counsel for the parties and have also gone through the case file carefully.

The lower Court has taken the view that the original document relating to the Drawing No.DTP-782/70 dated 27.11.1970 is available in the office of Director Town and Country Planning, Panchkula, Haryana and that the plaintiff is not producing the said map despite several opportunities. It is also observed that one PW Gori Shankar, an employee of the office of District Town and Country Planning, Hisar (Haryana), deposed that only a traced copy of the drawing dated 27.11.1970 is available in their office and that the original of this drawing was available in the office of Director Town and Country, Planning, Haryana (Chandigarh).

Learned State counsel has argued that the site plan proved in the case of **Kashmiri Lal versus Haryana State** pending in the Court of learned Civil Judge (Jr. Divn.), Hisar is forged one and inquiry in this regard was conducted. Therefore, the said copy cannot be treated as authenticated one to prove the site plan regarding the traced copy available in the office of District Town and Country, Planning, Haryana, Hisar. The stand of the petitioner is that it is a traced copy and manipulated one and does not bear the signatures of anybody, therefore, the same is manipulated to benefit some booth owner by showing a narrow passage. Therefore, it comes out that both the parties claim that one or the other copy of

the original is fake.

There is nothing on the file to show that the original was summoned from office of Director Town and Country Planning, Haryana Chandigarh and if it was summoned what report was received. The lower Court has observed that despite getting summons to District Town & Country Planning Haryana, no evidence is being led.

In such circumstances, the revision petition is disposed of with the direction that the plaintiff will first summon the original from the office of Director Town and Country Planning, Haryana, Chandigarh and it will be his responsibility to take the summons dasti. If the original is produced then there is no question of allowing the secondary evidence. However, if report is received that the original is not traceable or available, then the plaintiff shall be entitled to lead the secondary evidence and while leading the secondary evidence he will have to lead the evidence to prove the existence, authenticity and loss of the original before it can be relied upon by the Court. Needless to say that the defendant shall also be given an opportunity to lead evidence to the contrary.

Revision is accordingly disposed of.

December 03, 2015
rimpal

(KULDIP SINGH)
JUDGE