

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CR No. 7159 of 2015
Date of decision : October 28, 2015

Samey Singh

..... Petitioner

Versus

Shri Rajinder and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. R. K. Guggal, Advocate
for the petitioner.

1. Whether reporters of local papers 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?

Amit Rawal, J (oral).

The petitioner-plaintiff is aggrieved against the impugned order dated 23.4.2015 (Annexure P-5) whereby his application seeking permission of the Court to prove the photocopy of the Will dated 17.12.1992 as secondary evidence has been dismissed.

It is a matter of record that the suit instituted at the instance of defendant No.3 was dismissed on 27.2.1999. In the aforementioned suit, Will and gift deed dated 15.6.1999 and 14.9.1999 were set up by defendant No.3. The plaintiff and the attesting witness of the photocopy of the Will dated 17.12.1992 appeared in the aforementioned proceedings but did not disclose the factum of the same.

In my view, it is an apparent art of collusion between plaintiff and defendant No.3-sister to prove the Will by proving photocopy of the Will dated 17.12.1992 as secondary evidence. Even otherwise, photocopy of a document is not a secondary evidence. Existence and loss of the document is also to be proved before any document is permitted to be proved by way of secondary evidence so the court below and this court chosen to ponder upon the validity of the document.

I do not find any illegality and perversity in the impugned order and the same cannot be said to have been passed without jurisdiction.

The revision petition is devoid of merits. Accordingly the same is dismissed.

(AMIT RAWAL)
JUDGE

October 28 , 2015
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