

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

125

Civil Revision No.8251 of 2015

Date of Decision: December 07, 2015

Ran Singh

...Petitioner

Versus

Balbir Sharma

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Ramender Chauhan, Advocate
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this revision petition is to the order dated 18.11.2015 passed by the Rent Controller, Bhiwani, by which an application filed by the petitioner seeking permission to lead secondary evidence by which he intends to prove the photostat copies of the rent receipts, has been dismissed.

2. It is the contention of learned counsel for the petitioner that the Court below has not properly appreciated the fact that the original receipts have been lost by him and accordingly a Daily Diary Report was got entered on 25.02.2011. He further asserted that when the order dated 18.11.2010 was passed by the Rent Controller, the applicant-petitioner had produced the photostat copies of the receipts and at that time, he had the original receipts with him, it is subsequent that the said receipts were lost when the case was in progress and the D.D.R. entry was got recorded. He, thus, contends that the dismissal of the application seeking permission to lead secondary evidence, cannot sustain. He further contends that the secondary evidence has to be corroborated by other evidence which ultimately has to be taken into consideration by the Court to allow the same to be accepted or

not.

3. This contention of learned counsel for the petitioner, on consideration, cannot be accepted as it is apparent that except for the bald version of the petitioner, there is no other evidence on record except for the D.D.R. entry dated 25.02.2011. At the stage when the assessment of rent was taking place before the Rent Controller, the applicant-petitioner placed on record the photostat copies of the receipts and not the original receipts before the Court. No reason as to why the original receipts were not produced at that stage has come forth. It appears that the loss of documents has been taken as a plea at a subsequent stage and, therefore, a D.D.R. entry dated 25.02.2011 has been got recorded. The observations of the Court below that the photocopies of the original receipts can only be tendered by way of secondary evidence after it is proved on record that the photostat copies have been compared with the original are correct as nothing has come on record which would indicate so. There is no such averment made in the application. The petitioner has not been able to rebut the law, as has been laid down by the Supreme Court in case titled as ***Smt. J. Yashoda Versus Smt. K. Shobha Rani Civil Appeal No.2060 of 2000***, decided on 19.04.2007.

4. The contention of the counsel for the petitioner although to the extent that the secondary evidence, if permitted to be led, is not to be accepted, as it is, and has to be taken in corroboration with other evidence which has to be produced by him but that stage would come at a later position in the case but at the very first instance, the requirement of the law, as has been mandated, having not been fulfilled by the applicant-petitioner, the same has rightly been rejected. It may not be out of way to mention here

that the petitioner did not even annex his duly sworn affidavit along with the application to prove the existence of the document.

5. In view of the above, finding no merit in the revision petition, the same stands dismissed.

December 07, 2015

Puneet

**(AUGUSTINE GEORGE MASIH)
JUDGE**