

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CR No. 8413 of 2014

Date of decision : September 10, 2015

Baljit Singh

..... Petitioner

Versus

Deepak Mittal

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Sanjay Jain, Advocate
for the petitioner.

Mr. Narinder Singh Bhegh, Advocate
for the respondent.

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 challenge in the present petition is to the impugned order dated 1.11.2014 whereby the application moved by the petitioner-defendant for leading secondary evidence with regard to the agreement to sell dated 5.2.2009 and 28.5.2009 has been dismissed.

Learned counsel appearing on behalf of the petitioner-defendant submits, that since the existence of aforementioned documents has been admitted by the plaintiff, in the cross-examination and originals are in his possession, therefore, the application to prove the aforementioned documents by way of secondary evidence was moved as petitioner-defendant taken a

stand in the written statement that prior to the agreement to sell in question i.e. 29.7.2010 the aforementioned agreements were being entered into for the purpose of obtaining loan and not for selling of the land in dispute. This would help the court in adjudication of *lis* between the parties. Therefore, it is essential and necessary to be prove on record such evidence by way of secondary evidence.

Mr. Narinder Singh, learned counsel appearing on behalf of the respondent submits that the aforementioned agreements have no relevancy, for the adjudication of the *lis* between the parties as the suit is for specific performance of the agreement to sell dated 29.7.2010 and rightly so the trial court has dismissed the application.

I have heard learned counsel for the parties and appraised the paper book.

The petitioner-defendant in the written statement has denied the agreement to sell by stating that it was a loan transaction, as previously also there had been a loan transaction by executing documents, which apparently appeared in an agreement to sell as the petitioner-defendant had taken money from the respondent-plaintiff and had been returning the same and such agreements to sell were being cancelled. The plaintiff in cross-examination has also admitted the signatures on the aforementioned agreements which have been marked as D-1 and D-2, whereas, the documents have to be proved on record. The respondent-plaintiff has already admitted existence of the documents as originals are

with him.

In view of what has been observed above, it would not be necessary to prove existence and loss for the purpose of secondary evidence, as it would help the court to adjudicate the *lis* between the parties.

The petitioner-defendant is permitted to lead secondary evidence in respect of the aforementioned documents dated 5.2.2009 and 28.5.2009 by way of secondary evidence in accordance with law.

The aforementioned impugned orders are set aside and the revision petition stands allowed.

(AMIT RAWAL)
JUDGE

September 10, 2015
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