

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

CR No.1065 of 2016

Date of decision : 11.02.2016

Baldev Singh

.....Petitioner

Versus

Jaskaran Kaur and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

1. Whether Reporters of the local papers may be allowed to see the judgment ? Yes
2. To be referred to the Reporters or not ? Yes
3. Whether the judgment should be reported in the Digest? Yes

Present: Mr. K.S. Rekhi, Advocate for petitioner.

DARSHAN SINGH, J.

The present revision petition has been preferred against the order dated 04.01.2016 passed by learned Additional Civil Judge (Senior Division), Ajnala, whereby the application filed by respondents-defendants under Section 65 of the Indian Evidence Act, 1872 (hereinafter called the 'Evidence Act') to lead the secondary evidence has been allowed.

2. The respondents-defendants had moved an application under Section 65 of the Evidence Act for permission to produce and prove the sale deed dated 15.07.1967 executed by Labh Singh in favour

of Dalip Singh the predecessor-in-interest of defendant No.1 by way of secondary evidence on the ground that the original sale deed was in possession of Dalip Singh who has died on 01.07.1989 and the sale deed could not be traced out despite the best efforts. The production of the sale deed dated 15.7.1967 is very material for the just adjudication of the present litigation. It has been prayed that the defendants-respondents may be allowed to prove on record the copy of the sale deed by way of secondary evidence.

3. The said application was contested by the petitioner-plaintiff on the plea that Labh Singh had never executed any sale deed dated 15.07.1967 in favour of Dalip Singh or anybody else. All other averments raised in the application were denied.

4. The learned trial court vide impugned order allowed the application. Hence this petition.

5. I have heard Mr. K.S. Rekhi, Advocate, learned counsel for the petitioner and gone through the paper-book carefully.

6. Learned counsel for the petitioner contended that the secondary evidence can only be allowed if the original document has lost. In the instant case, it is not the case of the respondent that the original sale deed has lost. So, the learned trial court was not justified in granting permission to lead the secondary evidence to prove the sale deed dated 15.07.1967

7. I have duly considered the aforesaid contentions.

8. It has been categorically mentioned in the application

moved by the respondent-defendant for leading the secondary evidence that the original sale deed was in the possession of Dalip Singh the predecessor-in-interest of defendant No.1 during his life time and he has since died and the sale deed could not be traced out by defendants No.1 & 2 despite best efforts. As per the averments in the application Labh Singh has executed the sale deed in favour of Dalip Singh the predecessor-in-interest of defendant No.1 on 15.07.1967. Naturally, the original sale deed will be in the possession of said Dalip Singh, the purchaser, who has already died and the same could not be traced out by defendants No.1 & 2 in spite of their best efforts. Thus, practically the original sale deed shall be considered to be lost. The sale deed dated 15.07.1967 was the registered document. The copy thereof must be available with the office of the concerned Sub Registrar in the official record. So, there is no question of manipulation of the copy of the sale deed. Thus, the impugned order passed by the learned Tribunal granting permission to the defendants-respondents to prove the sale deed dated 15.07.1967 by leading the secondary evidence does not suffer from any legal infirmity nor it has resulted in any prejudice to the petitioner.

9. Resultantly, the present revision petition has no merits and the same is hereby dismissed.

11.02.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**