

216.

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

**Civil Revision No.1664 of 2014**

Date of decision:19.01.2016

Gurcharan Singh

... Petitioner

versus

Rajinder Singh and others

.... Respondents

**CORAM: HON'BLE MR. JUSTICE K. KANNAN**

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Present: Ms. Rakhi Sharma, Advocate,  
for the petitioner.

Mr. Anil Chawla, Advocate,  
for respondent No.1.

Mr. Pankaj Sharma, Advocate,  
for respondents 2 and 3.

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1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ?No.
3. Whether the judgment should be reported in the digest ?No.

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**K.Kannan, J. (Oral)**

1. The revision petition is quite unnecessary, for, the court has merely allowed for reception of secondary evidence of agreements of sale alleged to have been executed by the plaintiffs in favour of the defendants. The agreements are of the year 1989 and admittedly, there had been no sale in pursuance thereof. If in a suit for partition brought by the plaintiffs, the defence is that the plaintiffs had offered to sell the property through agreements and the

original of the agreement itself was not filed along with written statement in the manner required under Order 8 Rule 1 CPC, the plaintiffs can take advantage of the conduct of the defendants and put to test an assertion made by the defendants that the document had been lost even on 12.03.2009 which was anterior in point of time to the filing of the statement. The grievance of the petitioner is that even in the written statement filed, there is no reference to loss of the original. This could again be taken as a point in favour of the plaintiffs to elicit the correctness and the assertion of loss of the original.

2. It is also the contention of the plaintiff that there is no such agreement and the agreement is a fabrication of document. Merely because it is received, it cannot amount to the document as having been proved. The fallabilities pointed out by the plaintiff could be still available for being pointed out at the time of trial and at the time of arguments. No right of the plaintiff has been defeated by the reception of secondary evidence. At the time of admission of secondary evidence, all that the court would see is whether a ground for its production has been made in the manner required under Section 65 of the Evidence Act. If there is assertion that the original is missing or lost, the ground must be taken as established. That must itself be the sufficient justification for ordering the reception of secondary evidence.

3. There is no reason for interfering with the order of the trial court. The revision petition is dismissed but with the above observations which the trial court will bear in mind while disposing of the case of the plaintiff.

**(K.KANNAN)**  
**JUDGE**

19.01.2016  
sanjeev