

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No.2685 of 2016

Date of Decision.12.04.2016

Manoj Kumar and others

.....Petitioners

Vs.

Sudha Devi and others

.....Respondents

Present: Mr. Munish Kumar Garg, Advocate and
Mr. Ankur Tyagi, Advocate
for the petitioners.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

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?

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K. KANNAN J. (ORAL)

1. The petitioner's application under Section 65 of the Indian Evidence Act for production of photocopies of affidavits of two persons purporting to be attestors was rejected. I would find the rejection need not be merely a ground that there was no proof of what had happened to the originals. Even if the originals were to be produced, they are irrelevant and inadmissible. Affidavits of living persons cannot be brought on record as evidence *proprio vigore* and the application was on wrong basis that the originals could not be produced in Court. The originals cannot be produced unless it is brought for contradiction of statement of particular witnesses who state any fact contrary to what is contended by the parties and the affidavits are admitted by persons from contradiction is sought to be elicited. It appears that even two persons Kuldeep and Dharampal had been summoned as witnesses in Court

and they had denied that they ever executed any document. If they had made denial of the statements, production of either the original or the photocopy can serve no purpose, for the proof of the Will cannot be proved by reference to affidavit given elsewhere before some other authority that the Will was true. The case has to survive on the evidence which is brought before the Court at the time when the Will is required to be proved and cannot stand on alleged statement elsewhere before some other authority.

2. The order already passed rejecting the application is supported by other reasons setting out the cause for the inadmissibility of the document, for lack of proof of loss of original. The revision petition is dismissed.

(K. KANNAN)
JUDGE

April 12, 2016
Pankaj*