

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

CR-3168-2016

DATE OF DECISION:04.08.2016

SEWA SINGH

..Petitioner

VS.

DAYA RAM AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. S.S. Rana, Advocate
for the petitioner.

DARSHAN SINGH (ORAL)

1. The present revision petition has been preferred by the plaintiff-petitioner against the order dated 10.3.2016 passed by the learned Civil Judge (Junior Division), Ludhiana, whereby, the application filed by the defendants/respondents for directing the petitioner to produce the original agreement to sell dated 11.8.2013 and in the alternative to allow them to lead secondary evidence has been allowed.

2. Learned counsel for the petitioner contended that the agreement dated 11.8.2013 was never entered upon between the parties nor any such document was in the possession of the petitioner so the learned trial Court was not justified to grant permission to the respondent to lead the secondary evidence with respect to the alleged agreement dated 11.8.2013.

3. I have duly considered the aforesaid contentions. The respondent-defendant has taken a specific plea in the written statement

that the agreement to sell for the sale of land measuring 24 kanals 1 marla was executed between the parties. The original agreement is in the possession of the plaintiff and they are only having the xerox copy. They have requested that the plaintiff should be directed to produce the original agreement and in the alternative they should be allowed to lead the secondary evidence. The petitioner has denied the execution of any such agreement. As per the common practice, the original agreement remains in the possession of the purchaser. So, the learned trial Court has rightly observed that the original agreement dated 11.8.2013 is out of the reach of the respondents/defendants. They are only having the xerox copy which prima facie shows the existence of the said agreement. So, there was no other alternative available to the learned trial Court except to allow the request of the respondents/defendants to lead the secondary evidence with respect to the said agreement.

4. Thus, I do not find any illegality in the impugned order calling for any interference by this Court. Hence, the same is hereby dismissed.

(DARSHAN SINGH)
JUDGE

August 04, 2016.

SwarnjitS

Whether speaking/reasoned:- Yes / No

Whether Reportable:- Yes / No.