

In the High Court of Punjab and Haryana, at Chandigarh

1. Civil Revision No. 3566 of 2014 (O&M)

Avtar Singh
... Petitioner(s)

Versus

Manjit Kaur and Others
... Respondent(s)

AND

2. Civil Revision No. 3567 of 2014

Avtar Singh
... Petitioner(s)

Versus

Manjit Kaur and Others
... Respondent(s)

Date of Decision: 27.05.2016

CORAM: Hon'ble Mr. Justice Shekher Dhawan.

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

Present: Mr. Harsh Aggarwal, Advocate
for the petitioner(s).

Mr. Sumeet Mahajan, Senior Advocate
with Ms. Ramneeq Kaur, Advocate
for the respondent(s).

Shekher Dhawan, J.

This order shall dispose of above referred two revision petitions

under Article 227 of the Constitution of India for setting aside orders dated 5.5.2014, passed by learned Civil Judge (Junior Division), Ludhiana, in Civil Suit No. 723 dated 9.9.1992 titled as “Avtar Singh v. Manjit Kaur & Others” whereby applications filed by the plaintiff, one for reconstruction of documents (Ex.P2, Ex.P3 & Ex.P22) and another for seeking permission to tender in evidence and prove the certificate under Evidence Act, 1975 received from Hon'ble High Court of U.K., report sent by John David Hindmarsh dated 23.12.2008 along with all other documents moved by attorney of the plaintiff, were disposed of. For disposal of these petitions, facts are being taken from Civil Revision No. 3566 of 2014.

Learned counsel for the petitioner submitted that three documents i.e. power of attorney dated 1.9.1988 in favour of Darshan Singh (Ex.P2) and another power of attorney dated 11.4.1989 of Gurbachan Singh in favour of Darshan Singh (Ex.P3) are to be reconstructed and to prove certificate of Mr. John David Hindmarsh, Notary Public dated 23.12.2009 (Ex.P22) along with all the documents. Learned counsel for the petitioner also submitted that these documents were available on the file and same are exhibited by the Court and as such the said documents were ordered to be placed on the court file. Later on the same lost somewhere in the Hon'ble High Court in England, though the same were received in the Royal Courts of Justice, London. That way, it was the Court property and the Court must reconstruct the same in exercise of its inherent power. On this point, reliance was placed upon the judgment of Division Bench of Allahabad High Court in *U.P.State Road Transport Corporation, Lucknow v. Smt. Geeta Devi and Others 1983 AIR (Allahabad) 124* and view taken by this Court in

Gobind Ram v. Bal Kishan Dass 1982(2) Rent LR 310.

Learned counsel for the petitioner also submitted that the loss of record of a public document in foreign country and can be restored by a copy certified by the legal keeper and the said documents can be reconstructed under Section 78(6) of the Indian Evidence Act, 1872 and the same are admissible in evidence. But the Court below declined the same without any reason and the said order is liable to be set aside.

Learned senior counsel for the respondent submitted that undisputedly, the documents (Ex.P2 & Ex.P3) were the photocopies of the power of attorneys and the same were sent to the Royal Courts of Justice, London. The said documents were wrongly exhibited, although the same could not be exhibited as per law. Certificate (Ex.P22) cannot be looked into because the said statement was not a complete statement as cross-examination has not been completed and as such the same also cannot be looked into and could not be exhibited and the Court below has rightly disposed of the application. These aspect can be looked into at the time of decision of the case.

Having considered the submissions made by learned counsel for the parties and the controversy involved in the case, this Court is of the considered view that undisputedly, the photocopies of documents (Ex.P2 & Ex.P3) were sent to the Royal Court of Justice, London and the same were reported to have been lost at the same end. The photocopies of the same are already in record of the trial Court. As regard to Ex.P22, the contention of learned counsel for the petitioner is that even cross-examination was completed in the due process of law by the Court and as such the statement

was complete and document was to be exhibited as per law, which has been refuted by the counsel for the respondent.

However, all these aspects are required to be looked into by the trial Court and to decide whether the documents were duly exhibited as per law or not and whether the same were required to be accepted or not keeping in view the photocopy of documents available on the file and already adopted by the parties for proving the same including the manner in which these documents were sent to the Royal Court of Justice, London and the manner in which the documents were received in the Court. The Court below has already passed the order that it shall be a matter of facts only and for that purpose reconstruction is not required and accordingly decided the applications.

In view of above discussion, both the above mentioned petitions are disposed of with the direction that the Court below shall consider and decide all the aspects regarding exhibition of documents (Ex.P2, Ex.P3 & Ex.P22) as per law at the time of decision of the case keeping in view the material and evidence available on the file.

**(Shekher Dhawan)
Judge**

May 27, 2016
“DK”