

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

C.R. No.5942 of 2016 (O&M)

Date of Decision.09.09.2016

Jitender Singh

.....Petitioner

Vs.

Ranjit Singh

.....Respondent

Present: Mr. Anil Ghanghas, Advocate
for the petitioner.

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AMIT RAWAL J. (ORAL)

The counsel for the petitioner contends that observation of the Court below with regard to admissibility of document is erroneous, in view of the fact that the report of the local commissioner is not of the instant case but of some other case and therefore, it cannot be treated to be a primary evidence and objection could not have been rejected. The rejection of the objection is not in consonance with the provisions of Section 33 of the Indian Evidence Act.

I have gone through the impugned order and the impugned order reads thus:-

“DW6. Statement of Sh. Sandeep Singh Lakha, Advocate recalled for further examination in chief on SA.

In case file titled as Ranjit Singh Vs. Jeetinder Singh Civil Suit No.319 dated 25.05.2006/09 decided on 26.07.2016 by the court of Mrs. Vipindeep Kaur, I was appointed LC by the Court and I visited the spot at 5:00 PM. I have seen my original report on case file and prepared by me and I identify my signature on the same. The certified copy of the same is Ex.DW6/2. I have also prepared site plan which bears my signatures and the certified copy of the same is Ex.DW6/3. I have also prepared the memo of presence present at the spot

which also bears my signature. The certified copy of the same is Ex.DW6/4. The documents were prepared as per factual position at the spot.

All the four documents are objected to on the mode of proof as no certified copy has been given by the copying agency as the said report etc. was never exhibited in the court.

Court observation. *The Advocate who was appointed as LC has himself prepared the report and other documents and has identified his writing on the same. Once the documents have been prepared by the witness and identified by him in the Court the objection to exhibition of same are meaningless and are therefore, dismissed.”*

I am of the view that Court below ought not to have rejected the objections as he remained oblivious of the provisions of Section 33 of the Indian Evidence Act. It is settled law that mere exhibition of the document does not dispense with proof of the same in view of the landmark judgment of the Hon'ble Surpeme Court in *Sait Tarajee Khimchand And Ors. vs Yelamarti Satyam Alias Sattettya and others AIR 1971 SC 1865*, reiterated in many subsequent judgments. I am of the view that the Court below ought not to have rejected the objections and should have kept it open for adjudication at the time of final arguments. The Courts below is directed to be more wary in the mode and manner of deciding the objection.

With the above observations, the revision petition is disposed of and the adjudication of the objection is to be kept open at the time of final arguments.

(AMIT RAWAL)
JUDGE

September 09, 2016

Pankaj*

Whether reasoned/speaking Yes

Whether reportable Yes