

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.6361 of 2016
Date of decision:04.10.2016

Suresh Berwal

... Petitioner

Vs.

Dharamvir and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. S.S.Antal, Advocate
for the petitioner.

AMIT RAWAL J. (Oral)

The petitioner-defendant is aggrieved of the impugned order dated 29.08.2016 (Annexure P-1), whereby, the application to lead secondary evidence of the documents filed at the instance of respondent-plaintiff, has been allowed.

Mr. S.S.Antal, learned counsel appearing on behalf of the petitioner-defendant submits that the documents were not inadvertently pleaded in the plaint and therefore, the evidence led was beyond the pleadings. The entire averments made in the plaint have specifically been denied.

During the course of hearing, Mr. Antal, Advocate has passed on a copy of the written statement as desired to be seen, in view of the order dated 24.09.2016. Though there is a reference of the certain transactions held on 28.07.2008 but I would not be dealing with the same as it would prejudice the rights of the petitioner but the application for leading

secondary evidence could not have been allowed in the manner and mode without putting the rider of its existence or loss.

Accordingly, the impugned order dated 29.08.2016 is modified. The plaintiff shall be given liberty in order to lead secondary evidence, firstly to prove the existence and loss of the documents only then the same can be taken into consideration by way of secondary evidence.

Revision petition stands disposed of.

(AMIT RAWAL)
JUDGE

October 04, 2016
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No