

209.

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

Civil Revision No.6815 of 2013

Date of decision:05.02.2016

Baldev Raj

... Petitioner

versus

Satnam Ram and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr.Paramjit Singh Jammu, Advocate,
for the petitioner.

Mr. Sandeep Punchhi, Advocate,
for the respondents.

K.Kannan, J. (Oral)

1. The order passed is erroneous in declining to receive the secondary evidence for a registered sale deed of the year 1989. The sale deed was in favour of the plaintiff's father and his son has filed the suit. The objection is that it is not stated in the plaint anywhere that the original was missing. Any of the grounds mentioned under Section 65 of the Evidence Act as justification for production of secondary evidence are matters of evidence and not essential matters of pleading. Order 6 Rule 2 CPC itself allows for the pleadings to be brought only on essential facts and not on a matter of evidence. The Evidence Act is a procedural law and if a basis is given at the time of evidence by a party who tenders a registration copy of the

document, the court is bound to receive it and allow the benefit of cross-examination to the defendant in the manner that he contends for, including a plea that the original is very much available and he still deliberately not filing it. The court will decide on whether the justification given by the plaintiff was correct or not at the time when he delivers the judgment and receive the document subject to such proof as it is necessary under the circumstances.

2. The impugned order is set aside and the revision petition is allowed.

(K.KANNAN)
JUDGE

05.02.2016
sanjeev