

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

C.R. No.7613 of 2015

Date of Decision.21.01.2016

Gurdev Singh

.....Petitioner

Vs.

Sucha Singh and others

.....Respondents

Present: Mr. Ashok Asuri, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

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K. KANNAN J. (ORAL)

1. The petitioner had adopted the procedure which was unnecessary and has brought upon himself an adverse order and hence, revision petition.

2. The plaintiff who filed the suit against his brother had a contention to make that the father had executed a Will. He did not have the original Will and in an application for production of secondary evidence, he stated that the original Will is with the 3rd defendant and he had called upon him to produce the same but he is not doing so. He has, therefore, sought for production of the secondary evidence. The issue at large is that whether the document which is before the Court is secondary evidence in the manner defined under Section 67 of the Indian Evidence Act namely of a copy made from the original which is an exact reproduction of the original. The Court ought to allow for secondary evidence on the basis of the contention made that the plaintiff is not in

possession of the document and that it is in the hands of the adversary. It is a sufficient ground under Section 65 of the Indian Evidence Act to admit secondary evidence. The Court will only examine whether the document which is produced and stated to be a secondary evidence of the original is proved to be the secondary evidence in the manner defined under the Indian Evidence Act. If such a proof is available, the same is ordered to be received and the Court will allow for the respondents to examine whether the grounds made under Section 65 of the Indian Evidence Act are made at the time of cross-examination and will take an adjudication on the admissibility and validity of the Will along with all other evidence at the time of disposal of the case. I have dispensed with notice to the respondents having regard to the fact that the issue of how the secondary evidence has to be considered, has come through several judgments and particularly in Atma Nand (deceased) through LRs Vs. Ram Sarup (deceased) through his LRs 2012(1)PLR 440, S.P. Arora Vs. Satbir Singh 2010(5) RCR 530 and Simarpal Singh Vs. Hakam Singh 2009(2) PLR 562.

3. The order already passed is modified and the revision petition is allowed on the above terms.

(K. KANNAN)
JUDGE

January 21, 2016
Pankaj*