

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

CR-781-2016(O&M)

Date of decision : 04.02.2016

Rishav Dev

... Petitioner

Versus

Narian Dutt and others

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Janak Singh Bhinder, Advocate
for the petitioner.

REKHA MITTAL. J.(ORAL)

The present petition lays challenge to order dated 13.10.2015 passed by the Additional Civil Judge (Senior Division), Sangrur whereby the application filed by the respondents-defendants for permission to prove the registered gift deed dated 12.09.1967 executed by Ramji Dass in favour of Narain Dutt, Kapil Dev and Bhoj Raj by way of secondary evidence has been allowed.

Counsel for the petitioner would contend that it is not mentioned in the application as to when the respondents obtained certified copy of the gift deed dated 12.09.1967. It is further submitted that gift deed propounded by the respondents is false, fabricated and forged document.

I have heard counsel for the petitioner, perused the records and find no merit in the petition.

A bare reading of the written statement filed by the

respondents would evident that a specific plea was raised that Ramji Dass executed a gift deed with regard to his property including house in dispute. The gift deed is a registered document dated 12.09.1967, allegedly executed in favour of Narain Dutt, Kapil Dev and Bhoj Raj. A photo copy of the deed was appended with the written statement. The jamabandi with regard to gifted land as per the gift deed was also attached. The respondents produced on record a certified copy of the gift deed for proving the same by way of secondary evidence with the plea that original is not traceable. The learned trial Court has allowed plea of the respondents to prove the gift deed by way of secondary evidence subject to proof of its execution, existence and loss.

The application filed by the respondents is squarely covered within the preview of Section 65 of the Indian Evidence Act. The plea of the petitioner that the gift deed is a forged and fabricated document can be examined by the trial Court only on the basis of evidence to be adduced by the parties and at this stage, it is difficult to accept the said plea to reject the application filed by the respondents. That being so, I do not find any error or illegality in the impugned order.

For the foregoing reasons, finding no merit, the petition is dismissed in limine.

(REKHA MITTAL)
JUDGE

February 04, 2016.

Davinder Kumar