

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

CR No.1096 of 2017.

Date of Decision: 15.02.2017.

Avtar Singh

....Petitioner.

VERSUS

Padam Bhushan

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Vijay Lath, Advocate for the petitioner.

SNEH PRASHAR, J.

The petitioner is aggrieved of the orders dated 30.08.2016 and 23.01.2017 passed by learned Civil Judge (Senior Division), Rupnagar by virtue of which his applications filed for proving a document by way of secondary evidence were dismissed.

The submissions made Mr. Vijay Lath, learned counsel representing the petitioner have been considered.

Copy of the applications filed by the petitioner seeking permission to adduce secondary evidence have been annexed with the instant petition (as Annexure-P4 and Annexure-P6). Indeed, as observed above by learned trial Court in the impugned orders dated 30.08.2016 and 23.01.2017, the applications are totally silent with regard to particulars of the documents in respect of which the petitioner intended to lead secondary evidence.

Learned counsel for the petitioner contends that the petitioner had filed a suit for specific performance of agreement of sale dated 11.02.2009. As mentioned in the agreement, the date fixed for execution and registration of the sale deed was 25.03.2009. On that date, the petitioner remained present in the Office of Sub Registrar, Chamkaur Sahib alongwith the balance sale consideration amount, but the respondent-defendant did not turn up. Since the respondent-defendant had influence in the police, the petitioner was picked up by the local police and his signatures were obtained forcibly on the back of the agreement. The copy of affidavit dated 25.03.2009 got attested by the petitioner from the Executive Magistrate, Chamkaur Sahib was taken away by the police and he was threatened of dire consequences in case he filed any suit. The police has since refused to give the original agreement and copy of the affidavit to the petitioner and therefore, it has become necessary for him to produce secondary evidence with regard to the said document.

The facts pleaded by the petitioner in the written statement filed by him (Annexure-P3) are quite distinct from the story narrated by learned counsel for the petitioner during arguments. It was not his case in the written statement that the affidavit got attested by him from Executive Registrar, Chamkaur Sahib had been taken away by the police. He produced no document to show that he ever complained to any authority about the incident he is now alleging.

Since the petitioner failed to satisfy the Court with regard to particulars of the documents and also their loss, in respect of which he intends to produce secondary evidence, learned trial Court rightly dismissed

Thus, there being no illegality or perversity warranting interference in the orders of learned trial Court, the petition is hereby dismissed.

(SNEH PRASHAR)
JUDGE

15.02.2017.
jitender sharma

Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No