

CR No. 15 of 2017 (O&M)

Amit Kumar
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**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA
AT CHANDIGARH**

**CR No. 15 of 2017 (O&M)
Date of decision: 21.3.2017**

Hari Singh

...Petitioner

Versus

Sucha Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. J.K. Singla, Advocate
for the petitioner.

RAMESHWAR SINGH MALIK, J. (Oral)

Present revision petition, at the hands of plaintiff, is directed against the order dated 9.12.2016 passed by the learned trial court, whereby application of the respondent-defendant seeking permission to lead secondary evidence was allowed.

Heard learned counsel for the petitioner.

Learned counsel for the petitioner, while placing reliance on a judgment of Hon'ble the Supreme Court in **Rakesh Mohindra Vs Anita Beri and others, 2015 (4) RCR (civil) 1023** and a judgment of this Court in **Tej Maan Singh Vs. Lalita Grewal, 2016 (4) PLR 611**, contends that the learned trial court has wrongly allowed the application of the respondent-defendant for secondary evidence. He further submits that since the loss of document was not duly established on record, application for secondary evidence could not have been allowed. He prays for setting aside the impugned order, by allowing the present application.

Having heard the learned counsel for the petitioner at considerable length, after careful perusal of record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that instant revision petition is without any merit and the impugned order deserves to be upheld. To say so, reasons are more than one, which are being recorded hereinafter.

A bare perusal of the impugned order would show that existence of the document is not in dispute. Learned counsel for the petitioner also fairly conceded this much that document was not in dispute. Further, the document was of the year 1970 and the defendant-respondent has obtained certified copy thereof from the office of Sub Registrar. In fact, it was a public document. In this view of the matter, it can be safely concluded that the document was coming from proper custody and authenticity thereof could not be doubted.

So far as the loss of the said document is concerned, defendant-respondent furnished a duly sworn affidavit before the court to the effect that document was lost, as he has produced the same in the civil court. Since all the requirements of law were found to have been fulfilled, learned trial court was well within its jurisdiction to allow the application of the defendant-respondent to prove sale deed 722 dated 18.5.1970 registered on 27.5.1970 by way of secondary evidence and the impugned order deserves to be upheld.

So far as judgments relied upon by learned counsel for the petitioner are concerned, there is no dispute about the law laid down and observations made therein. However, on a close perusal of the cited judgments, the same have not been found to be of any help to the petitioner, being distinguishable on facts. It is the settled principle of law that peculiar facts of each case are to be examined, considered and appreciated first, before applying

any codified or judgemade law thereto. Sometimes, difference of even one circumstance or additional fact can make the world of difference, as held by the Hon'ble Supreme Court in **Padmausundara Rao and another Vs. State of Tamil Nadu and others, 2002 (3) SCC 533, Union of India Vs. Amrit Lal Manchanda and others, 2004 (3) SCC 75, State of Orissa Vs. Md. Illiyas, 2006 (1) SCC 275 and State of Rajasthan VS. Ganeshi Lal, 2008 (2) SCC 533.**

During the course of hearing, learned counsel for the petitioner could not point out any patent illegality or perversity in the impugned order, which may warrant interference at the hands of this Court, while exercising its revisional jurisdiction under Article 227 of the Constitution of India. In this view of the matter, it can be safely concluded that learned court below committed no error of law, while passing the impugned order and the same deserves to be upheld, for this reason also.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that present revision petition is misconceived, bereft of merit and without any substance. Thus, it must fail. No case for interference has been made out.

Resultantly, with the abovesaid observations made, instant revision petition stands dismissed, however, with no order as to costs.

21.3.2017
AK Sharma

(RAMESHWAR SINGH MALIK)
JUDGE

Whether Speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No