

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

**CR No. 154 of 2017
DECIDED ON: JANUARY 16, 2017**

DOUBLE SINGH

.....PETITIONER

VERSUS

SUKHWINDER SINGH

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Vaneet Soni, Advocate
 for the petitioner.

JASPAL SINGH, J

By virtue of instant petition preferred under Article 227 of the Constitution of India, petitioner has sought the setting aside of order dated December 05, 2016 (Annexure P-7) passed by learned Additional Civil Judge (Sr. Division), Kapurthala in Civil Suit No. 111/24.02.2014 whereby, an application seeking permission to lead the secondary evidence filed by the petitioner has been declined.

Heard.

Undoubtedly, petitioner/defendant moved an application before the trial Court seeking direction to respondent/plaintiff to produce on record the original agreements dated March 24, 2011 (wrongly typed as March 04, 2011) and March 22, 2012 and on his failure to do so, the petitioner/defendant be allowed to prove the same by way of secondary evidence. Photocopies of the above-referred agreements could not be produced on record before the trial

Court but the same have been annexed with the instant petition, which are executed in between the parties to the instant *lis* and signed by the witnesses. However, it is evident that no notice as required under Section 66 of the Evidence Act was served upon the respondent/plaintiff for the production of above-referred documents, who has otherwise abide the same and has based his entire claim on the agreement to sell dated February 27, 2013 executed by the petitioner/defendant in favour of respondent/plaintiff. However, the reference of the above-referred agreements have been given in the written statement by petitioner/defendant. Yet, copies thereof, were not placed on record with the written statement. Moreover, neither the alleged agreements have been ascribed by a regular deed writer nor registered with the Sub Registrar. The existence of original of the afore-said agreements has also not been proved. Mere, photostat copies of the documents are not suffice to prove the existence of original, which are otherwise not per se admissible in evidence. It is also not proved on record that these documents are in care and custody of respondent/plaintiff. There is a simple denial even with regard to the agreement of sell dated February 27, 2013, which is the foundation of the suit for specific performance, preferred by respondent/plaintiff.

Thus, this Court does not find any illegality or infirmity in the impugned order dated December 05, 2016. As such, instant revision being devoid of merits, is dismissed.

JANUARY 16, 2017
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No