

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

Civil Revision No.2385 of 2017 (O&M)
Date of decision: April 17, 2017

M/s Vikas House Building Co. Pvt. Ltd. ...Petitioner

Versus

Hukam Singh through his LRs & others ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Gaurav Rana, Advocate for the petitioner.

Rajan Gupta, J.

Present revision petition is directed against the order dated 22.02.2017, passed by Civil Judge (Jr. Division), Ludhiana, whereby application filed by the respondent/defendants seeking to lead secondary evidence by way of producing original agreement dated 24.11.1997 along with two receipts, has been allowed.

Learned counsel for the petitioner has urged before this court that the trial court has erred in allowing the application for leading secondary evidence. According to him, the alleged documents are not the photocopies of the original and thus, no permission can be granted to lead secondary evidence on the basis of photostat copies. He has relied upon judgment reported as *Smt. J. Yashoda vs. Smt. K. Shobha Rani, 2007 (2) R.C.R. (Civil) 840*.

I have heard learned counsel for the petitioner and given careful thought to the facts of the case.

It appears, petitioner/plaintiff company filed a suit for permanent injunction, restraining respondent/defendants from interfering in the land, as detailed in the plaint and also restraining defendant No.1 from alienating the said property. During pendency of suit, respondent/defendants filed instant application seeking to lead secondary evidence by producing original agreement and receipts dated 24.11.1997, entered into between the plaintiff and S. Hukam Singh son of S. Ralla Singh regarding land measuring 16 Kanals 1 Marla out of total 22 Kanals 18 Marlas, situated in Ayalli Khurd, District Ludhiana. After considering rival contentions of the parties, trial court allowed the application, observing that existence of documents and loss thereof has been proved on record in cross-examination of defendants' witnesses, when they could not produce the same. I find no infirmity with the order. PW-2 Ayush Bhalla during his cross-examination, stated that he had not brought the original agreement and receipt and would produce the same on the next date of hearing, but on the next date also he failed to produce the same. Thereafter, plaintiff complied with provisions of Section 65 of the Act and proved that the document in question existed. It had been later lost. Thus, the trial court has not committed any error in allowing the defendants to produce original agreement as well as receipts. There can be no dispute with the provisions of law laid down in *J. Yashoda's case (supra)*. However, in the facts and circumstances of the instant case, the

trial court has rightly exercised its power to lead secondary evidence to prove the document. Revision petition is without any merit and is hereby dismissed.

(RAJAN GUPTA)
JUDGE

April 17, 2017
'Rajpal'

Whether speaking / reasoned	Yes / No
Whether Reportable:	Yes / No