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

Sr. No.111

Civil Revision No.3426 of 2017 (O&M)
DECIDED ON: May 12, 2017

AVTAR SINGH (DECEASED) THROUGH HIS LRs

..PETITIONER

VERSUS

RAMAKANT GUPTA AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. J.S. Jaidka, Advocate,
for the petitioner.

JASPAL SINGH, J.

CM No.10683-CII of 2017

Heard.

Application is allowed as prayed for.

CR No.3426 of 2017

Challenge in this revision petition is to the order dated
December 07, 2016 (Annexure P-5) passed by learned Civil Judge (Jr.
Divn.) Ludhiana, whereby the second application under Section 65 of the

Evidence Act (for short 'Act') filed by the respondent No.1-plaintiff has been allowed.

2. The contention of the learned counsel for the petitioner is that previously, respondent No.1-plaintiff filed an application under Section 65 of the Act but that was dismissed vide order dated March 17, 2015. Subsequent thereto, respondent No.1-plaintiff served a notice as provided under Section 66 of the Act and thereafter, moved another application seeking direction to the defendant/petitioner to produce the original agreement dated April 05, 2012 executed between the parties, which has been allowed without considering the fact that application earlier filed on the similar grounds has already been dismissed. In view of the dismissal of the previous application, the second application was otherwise not legally maintainable. On this score alone, the impugned order dated December 07, 2016 is not sustainable in the eyes of law and deserves to be set aside.

3. This court has given an anxious thought to the aforesaid submissions made by learned counsel for the petitioner but find the same to be without any legal weight.

4. Previous application moved by the respondent No.1-plaintiff seeking permission to lead secondary evidence to prove the agreement dated April 05, 2012 was dismissed on the ground of non-compliance of service of notice as provided under Section 66 of the Act and the second application has been moved, which has been allowed vide impugned order dated December 07, 2016 after the necessary compliance of Section 66 of the Act. Thus, there is no legal impediment in allowing the application. The impugned order dated December 07, 2016 is perfectly legal and

inconsonance with the legal principles. As such, it does not call for any interference by this court.

5. Accordingly, instant revision petition stands dismissed.

May 12, 2017
Ankur

(JASPAL SINGH)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No