

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.4774 of 2017

Date of Decision: 10.10.2017

Mulakh Raj

.....Petitioners

Vs.

Madan Lal

.....Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Anil Kumar Garg, Advocate, for the petitioner.

RITU BAHRI, J. (ORAL)

Petitioner has come up in revision against the order dated 11.04.2017 (Annexure P-7) whereby, the application (Annexure P-5) filed by the plaintiff/respondent for proving the alleged gift deed by way of secondary evidence, has been illegally allowed.

Learned counsel for the petitioner submits that without leading sufficient evidence as the original has been lost, application could not have been allowed and the application is liable to be rejected.

A perusal of the order dated 11.04.2017 shows that the application has been allowed keeping in view that the document was registered and cannot be tampered with and as per Section 65(c) of Indian Evidence Act, whereby, when the original has been destroyed or lost, or when the party offering evidence of its contents cannot, for any other reason not arising from his own default of neglect, produce it in a reasonable time.

A perusal of legal provisions related to the present application clearly transpires that any document which had been lost and was not traceable

despite sincere efforts by the party concerned could be proved by way of

secondary evidence. As both the ingredients had been established on the file, learned trial Court has rightly allowed the application.

In view of the above, present revision for setting aside the order dated 11.04.2017, whereby the application for proving the alleged gift deed by way of secondary evidence has been allowed, is dismissed. However, initially the onus to lead evidence that it has been lost will be seen at the final stage of trial.

(RITU BAHRI)
JUDGE

10.10.2017
anil

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