

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.5408 of 2012 (O&M)

Date of decision: 02.02.2017

Rampal and others

... Petitioners

Vs.

Rajesh Kumar and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Sushil Bhardwaj, Advocate
for the petitioners.

Mr. Sandeep Singh, Advocate for
Mr. Madan Pal, Advocate
for respondent No.1.

RAMESHWAR SINGH MALIK, J. (ORAL)

Feeling aggrieved against the impugned order dated 05.09.2012 passed by the learned trial Court, whereby application of the plaintiff filed under Section 65 of the Indian Evidence Act, 1872 (for short 'the Act'), seeking permission to lead secondary evidence, was allowed, defendants have approached this Court by way of present revision petition under Article 227 of the Constitution of India, for setting aside the impugned order.

Notice of motion was issued.

Heard learned counsel for the parties.

It has gone undisputed before this Court that plaintiff-respondent No.1 has duly proved the existence and loss of agreement to sell dated 28.08.2006, which was entered into between the parties. The defendants-

petitioners also accepted the receipt of earnest money of Rs.8.00 lacs paid to them by the plaintiff. Defendants have been compensated by payment of reasonable costs, by the learned trial Court, while passing the impugned order at the time of allowing the application of the plaintiff for secondary evidence. Further, while passing the impugned order, learned trial Court granted only one opportunity to the plaintiff to conclude his entire secondary evidence at his own responsibility. Having said that, this Court feels no hesitation to conclude that learned trial Court was well within its jurisdiction to pass the impugned order and the same deserves to be upheld.

It is the settled proposition of law that rules of procedure are meant for advancing the cause of justice. Once the plaintiff has duly proved the existence and loss of document sought to be proved by way of secondary evidence, he had fulfilled the requirement of Section 65 of the Act, because of which he was rightly found entitled by the learned trial Court for leading his secondary evidence. In fact, learned trial Court, while passing the impugned order has examined, discussed and appreciated in the correct perspective all the relevant aspects of the matter and the impugned order has been found supported by sound reasons, which deserves to be upheld, for this reason also.

So far as the evidentiary value of the document is concerned, it is yet to be appreciated by the learned trial Court. Thus, the contention raised on behalf of the petitioners about the alleged non-admissibility of the document in question, is wholly misplaced, because that stage is yet to come when the learned trial Court shall consider the evidentiary value of the document. Under these circumstances, it can be safely concluded that learned trial Court committed no error of law, while passing the impugned order and the same

deserves to be upheld, for this reason as well.

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 the present revision petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No ground for interference has been made out.

Resultantly, with the abovesaid observations made, instant revision petition stands dismissed, however, with no order as to costs. Pending application(s), if any, shall be disposed of.

[RAMESHWAR SINGH MALIK]
JUDGE

02.02.2017
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No