

In the High Court of Punjab and Haryana at Chandigarh

**C.R.No. 5789 of 2017
Date of Decision: 29.8.2017**

M/s Supreme Industrial Corporation and another

---Petitioners

versus

M/s Shashi Kiran Metals and Ferro Alloys and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Nakul Sharma, Advocate
for the petitioners**

Rekha Mittal, J.

The present petition directs challenge against order dated 11.7.2017 (Annexure P-1) passed by the Additional Civil Judge (Senior Division), Amloh whereby application filed by the petitioners for directing defendant Nos. 3 and 4 therein to produce original agreement dated 25.11.2010 or in the alternative allow the plaintiffs/petitioners to lead secondary evidence regarding the said agreement has been dismissed.

Counsel for the petitioners has submitted that as defendant Nos. 3 and 4 in the suit have failed to produce the original agreement dated 25.11.2010, there is no alternative with the petitioners except to prove the said agreement by way of secondary evidence. It is prayed that the petitioners may be permitted to adduce secondary evidence after setting aside the order impugned.

I have heard counsel for the petitioners, perused the paper book

particularly the order impugned.

The trial court in para 5 of the order impugned has held that perusal of copy of agreement dated 25.11.2010 would indicate that the same has not been signed by any of the respondents/defendant Nos. 3 and 4, rather the same has been executed between Shashi Kiran Metals and Ferros Alloys through Sh. Bharat Bhushan (defendant Nos. 1 and 2 respectively) on one side and Sh. Rakesh Aggarwal (plaintiff No. 3) on the other side. It has further been held that merely because the payment has to be made to defendant Nos. 3 and 4 does not *ipso facto* show that agreement is in possession of defendant Nos. 3 and 4. Counsel has not disputed correctness of factual findings recorded by the trial court.

As defendants Nos. 3 and 4 could not be in possession of the original agreement and the petitioners have not made out a case for adducing secondary evidence on any other ground(s) envisaged under the relevant provisions of the Indian Evidence Act, I do not find any error much less illegality in the impugned order warranting intervention.

For the foregoing reason, the petition fails and is accordingly dismissed in limine.

(Rekha Mittal)
Judge

29.8.2017

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No