

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

CR No.6868 of 2017 (O&M)

Date of Decision: 06.10.2017

Balwinder Kaur

... Petitioner

Versus

Jasbir Kaur and others.

... Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. K.S. Rekhi, Advocate,
for the petitioner.

ANIL KSHETARPAL, J. (ORAL).

The defendant/petitioner is in revision petition against the order passed by the learned trial Court dismissing the application for permission to lead secondary evidence.

The learned trial Court has dismissed the application by recording thus: –

“Heard and record perused. The dispute regarding the agreement dated 20.6.1980 has already been decided even upto the Hon'ble High Court. Copy of the judgment dated 3.1.2007 shows that the said agreement was produced in that court as Ex.PW2/A. Thus it cannot be said that the agreement is not traceable. There is no dispute regarding the agreement dated 20.6.1980 involved in this case and same is not required for the purpose of the controversy involved in this case. Thus

when the agreement to sell dated 20.6.1980 has been adjudicated upon and set at rest even upto the Hon'ble High Court, said question cannot be reagitated in this case. Thus no permission can be granted to the applicant-defendant No.1 to prove the said agreement by way of secondary evidence. Resultantly, the application at hand is dismissed.”

Learned counsel for the petitioner has submitted before me that the record of the Court was burnt and it is not traceable.

I have seen the application filed under Section 65 of the Evidence Act. There is no such pleading in the application. On being confronted, learned counsel for the petitioner has stated that it is in his personal knowledge.

Keeping in view the fact that there is neither any pleading nor any assertion to this effect, learned counsel for the petitioner cannot be permitted to invoke his personal knowledge for the purpose of decision of the revision petition. The reasons given by the learned trial Court are not shown to be erroneous.

In these circumstances, the revision petition is dismissed.

(ANIL KSHETARPAL)
JUDGE

06.10.2017
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No