

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CR No.7484 of 2017
Date of decision: 08.12.2017

Suresh Kumar

..... Petitioner

Versus

Deepak Kumar and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Vivek Goyal, Advocate
for the petitioner.

ANIL KSHETARPAL, J. (ORAL)

Defendant No.1-petitioner is in revision petition against the order dated 20.09.2017, allowing the application for permission to adduce secondary evidence so as to prove memorandum of family settlement dated 03.05.2005 (somewhere it has been written as 03.07.2005).

It is not disputed that the plaintiff had filed a suit for declaration and permanent injunction with a consequential relief of mandatory injunction and had pleaded that there was a family settlement between the parties on 03.05.2005.

Learned trial Court taking into consideration these facts allowed the application after finding that foundation of this document has already been laid to the plaint.

Learned counsel for the petitioner has vehemently argued that the order passed is not in consonance with the provisions of Section 65 of the Evidence Act. He has submitted that the application for secondary

evidence can only be allowed subject to proof of existence of the document and loss thereof.

The argument of learned counsel for the petitioner has some substance, however, that would not detain this Court from proceeding to decide the matter. The order under challenge is modified and it is ordered that the application for secondary evidence shall stand allowed subject to evidence of existence of document and loss thereof.

In view thereof, the revision petition is disposed of.

08.12.2017
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

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