

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.2300 of 2018
Date of decision:06.04.2018

Hari Kishan

... Petitioner

Vs.

Rajinder Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Kulvir Narwal, Advocate
for the petitioner.

AMIT RAWAL J. (Oral)

The present revision petition is directed against the impugned order dated 16.02.2018 (Annexure P-3), whereby, the application under Section 65 of the Indian Evidence Act (for short “Act”) filed by respondent/plaintiffs No.1 and 2 for proving on record Special Power of Attorney dated 06.11.2004 executed by Harbir Singh in favour of defendant no.1(f) Ramesh Deswal by way of secondary evidence, was allowed.

Mr. Kulvir Narwal, learned counsel for the petitioner-defendant submitted that Special Power of Attorney, *ibid* cannot be permitted to be taken on record by way of secondary evidence in the absence of existence of original Special Power of Attorney, that too in a suit for specific performance alongwith consequential relief of permanent injunction. The trial Court has not taken into consideration the ingredients of Section 65 of Act, as existence and loss were required to be complied with, one of the

condition precedent for the purpose of allowing the application and thus, urged this Court for setting aside the order under challenge.

I have heard the learned counsel for the petitioner-defendant, appraised the paper book and of the view that finding given by the trial Court for permitting the plaintiffs to produce on record the Special Power of Attorney, *ibid*, by way of secondary evidence is perfect and legal but only modification is required that it has to be subject to the existence and loss. The argument of Mr. Narwal, with regard to whether it would be admissible in evidence in the absence of existence of original Special Power of Attorney, would be subject matter of consideration before the Court below at the time of final arguments but not in the manner and mode as indicated above.

With the aforementioned modification, revision petition stands disposed of.

(AMIT RAWAL)
JUDGE

April 06, 2018
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No