

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

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CR No.3046 of 2017 (O & M)
Date of Decision:16.03.2018

Ravinder Singh

...Petitioner

Versus

Balbir Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. M.S. Yadav, Advocate for
Mr. Gurvinder Singh, Advocate
for the petitioner.

Mr. Amardeep Singh Mann, Advocate
for respondent Nos.1 to 7.

Mr. Charanpreet Singh, AAG, Punjab
for respondent Nos.8 and 9.

ANIL KSHETARPAL, J.(Oral)

Defendant-petitioner is aggrieved of the order passed by the learned trial Court permitting the plaintiffs to lead secondary evidence under Section 65 of the Indian Evidence Act, 1872 to prove allotment letter dated 30.06.1976.

Learned counsel for the petitioner has vehemently argued that earlier also an application for permission to lead secondary evidence was filed to prove the aforesaid allotment letter/allotment slip, which was dismissed on 04.05.2016. He has submitted that once the application was dismissed, second application was not maintainable. Learned counsel has further submitted that loss of the document has not been proved in the absolute terms.

On the other hand, learned counsel for the respondents has

order shows that the Court refused to grant opportunity to the plaintiff on the ground that without proof of loss or destruction of the document permission cannot be granted. Thereafter, the learned trial Court while passing this order has noticed that Kanungo, a Government official, has been examined and has stated that the aforesaid allotment letter/allotment 'parchi' is not available on the record. After noticing this fact, the Court has allowed the application.

This Court has considered the argument of learned counsel. As noticed earlier, first application under Section 65 of the Evidence Act, 1872 was dismissed on the ground that the loss or destruction of the document is not proved. Subsequently when the fresh application was moved, the Court has found that some evidence has been led to prove the loss/destruction of the aforesaid document. Khuswinder Kumar, Office Kanungo, Nabha has appeared and has made a statement that original letter of allotment/allotment 'parchi' is not traceable.

Second argument of learned counsel is that loss has not been proved in the absolute terms. It may be noticed that for the purpose of allowing the application under Section 65, the parties are not required to prove the loss of the document sought to be adduced in evidence in absolute terms. The Court at an appropriate stage is well within its power to allow the party to lead secondary evidence.

In view thereof, there is no scope for interference.

Revision petition is dismissed.

16.03.2018
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(ANIL KSHETARPAL)
JUDGE