

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR 4296-2015 (O&M)
Date of decision: 14.03.2018

Bipan Jindal

.....Petitioner

versus

Baldev Singh etc.

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Rajan Bansal, Advocate for the petitioner
Mr.Mrigank Sharma, Advocate for respondent nos.1 & 2

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

Impugned in the present revision petition is the order dated 11.5.2015 (Annexure P4), passed by learned Additional Civil Judge (Senior Division), Barnala, vide which, application filed by the plaintiffs-respondents for secondary evidence to prove agreement dated 21.11.2006 was allowed.

I have heard learned counsel for both the parties and have also carefully gone through the file.

It comes out that the plaintiffs-respondents have filed a suit for declaration that plaintiffs are co-owners and are in joint possession to the extent of 70% and defendant no.1 is owner to the extent of 30% in the disputed property. Permanent injunction was also sought for restraining defendant no.1 from alienating the double story shop no.5 situated in Prem Pardhan Market, Barnala, District Barnala, without the consent of the

plaintiffs and without seeking partition.

During pendency of the suit, when the case was fixed for the evidence of the plaintiff, an application was filed that there was compromise between the parties. Original agreement is in possession of the defendant Bipan Jindal. Reply of the defendant was obtained, in which he denied the said document. Since, the said document has been denied and defendant is not admitting the existence of the said document, no notice under Section 66 of the Evidence Act is required. The order of the trial Court shows that it has allowed the secondary evidence subject to all just exceptions.

Learned counsel for the petitioner has argued that it is the photocopy, which is insufficiently stamped and cannot be allowed in secondary evidence. Reliance has been placed on the authorities in Smt.J.Yashoda v. Smt.K.Shobha Rani, 2007(2) RCR (Civil) 840, Hariom Agrawal vs. Prakash Chand Malviya, 2007(4) RCR (Civil) 548 and S.S.Toor vs. Gurleen Kaur and others, 2014(4) Law Herald 3613.

I am of the view that the case is at the evidence stage. Therefore, it will be inappropriate to make any comment as to whether the said agreement is insufficiently stamped or was executed by the parties or not? The ends of justice can be met by modifying the impugned order appropriately.

In these circumstances, the impugned order is modified to the extent that plaintiff shall prove the existence and loss of the original as well as admissibility of the said agreement/ compromise, the evidence regarding same will be led with the main case. If at the time of final decision, the trial Court comes to the conclusion that the said ingredients have been proved, the document will be admitted into evidence, otherwise same will be

discarded.

Present revision petition is accordingly disposed of.

Since the present petition has been disposed of, therefore, the pending CM, if any, also stands disposed of.

14.03.2018
gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:	Yes
Whether Reportable:	No