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

CR No. 448 of 2014

Date of Decision: 09.10.2018

Onkar Singh

....Petitioner

Vs

Jagdev Singh and others

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Aditya Jain, Advocate,
for the petitioner.

Mr. G.S. Dhaliwal, Advocate,
for the respondents.

RAJ MOHAN SINGH, J.(Oral)

Petitioner has preferred this revision petition against the order dated 18.12.2013 passed by Additional Civil Judge (Senior Division), Hoshiarpur vide which application filed by the plaintiffs-respondents No.1 to 3 under Section 65 of Evidence Act for leading secondary evidence was allowed.

Plaintiffs filed a suit for possession and recovery of Rs.3 lacs along with interest on the ground that the defendant No.1-petitioner has encroached upon the property of the plaintiffs and also removed 50 fully grown safeda trees. On the complaint moved before the police, a compromise was effected between the parties before the police.

In view of aforesaid compromise, defendants No.1 to

3 were to deposit the sale price of the trees with Ex-Sarpanch of the village. In order to prove the said compromise in terms of existence of original compromise, an application under Section 65 of the Evidence Act was filed on the strength of photocopy of the said compromise dated 01.09.2008.

The trial Court accepted the application on the premise that in view of statement of C-II Vishnu Ram No.435, Police Station Hariana, the original compromise was not found available in the police record, however, in the written statement, factum of moving an application before the police authorities was admitted, however the compromise was claimed to be false.

In **Bipin Shantilal Panchal Vs. State of Gujarat, 2001(1) RCR (Criminal) 859**, the Hon'ble Apex Court laid down the procedure for receiving the documents in evidence when the same is objected to during trial. The Court has castigated the practice of holding up trial on objections taken at the time of tendering documents in evidence. At that stage, asking the Court to pass an appropriate order on the objections has been categorized as an 'archaic practice'. The leading of evidence at that stage pursuant to the passing of impugned order would not crystallize any substantial right in favour of the party, rather the evidence led by the parties would be tested at the threshold of admissibility, validity and genuineness of the document in terms

of its execution and nature. Later stage would be an appropriate stage for lawful consideration and appreciation of such a criteria i.e. validity, admissibility and genuineness of the document. Though there is no provision for de-exhibiting the document already exhibited in evidence, but exhibition of a document if objected to has to be answered in terms of its admissibility at a later stage. The offer of secondary evidence can be at best impeached in cross-examination. If the plaintiff succeeds in proving proof of loss and existence of the document, the same can be allowed. In case of failure of the plaintiff to prove loss and existence, the same can be eschewed by the Court at a later stage.

Reference can be made to Dr. S.P. Arora Vs. Satbir Singh, 2010(5) RCR (Civil) 350, Simar Pal Singh Vs. Hakam Singh, 2009(14) RCR (Civil) 273, Ashok Kumar Sachdeva vs Harish Malik, 2007(4) RCR (Civil) 311 and Harjinder Singh vs Ranjit Kaur and others, 2016(2) PLR 46.

For the reasons recorded hereinabove, I find no error of jurisdiction in the impugned order passed by the trial Court.

This revision petition is accordingly, dismissed.

09.10.2018
Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No