

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

CR No. 5550 of 2018
Date of Decision: 26.09.2018

Jai Singh

.....Petitioner

Versus

Ram Singh

.....Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. J.P. Sharma, Advocate
for the petitioner.

DEEPAK SIBAL, J. (ORAL)

The present petition is directed against the order dated 16.07.2018, passed by the Civil Judge (Junior Division), Mahendergarh (for short, the Trial Court), through which an application filed by the respondent for producing agreement to sell dated 12.07.2013 by way of secondary evidence, has been allowed.

After hearing learned counsel for the petitioner and perusing the record, the essential facts which have emerged are that the respondent filed a suit seeking therein specific performance of agreement to sell dated 12.07.2013. During the course of leading his evidence, the respondent filed an application seeking to produce and prove the aforesaid agreement to sell dated 12.07.2013 by way of secondary evidence as according to him the original agreement to sell had been taken by the petitioner who had now denied its existence. The Trial Court allowed the respondent's application through the order which is the subject matter of challenge in the present proceedings.

There can hardly be a dispute that the agreement to sell dated 12.07.2013 is crucial to the decision of the respondent's suit. The pleadings of the parties further reveal that the existence of the aforesaid document has been denied by the petitioner/defendant. It has further come on record that even prior to filing of the respondent's suit, the respondent had sent a legal notice to the petitioner in which he had specifically averred that the original of the aforesaid agreement to sell dated 12.07.2013 was in the possession of the petitioner.

In view of the above and because the agreement to sell dated 12.07.2013 is the pivotal document qua the present suit as also for the reason that even after the respondent is permitted to produce the aforesaid agreement to sell dated 12.07.2013 by way of secondary evidence, he is still required by law to prove its evidentiary worth and genuineness, no error is found in the order impugned in the present proceedings.

Dismissed.

(DEEPAK SIBAL)
JUDGE

26.09.2018
sandeep

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No