

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

129

CR No.6114 of 2017 (O&M)

Date of decision: 10.05.2018

Teja Singh (since deceased) through his LR
Preet Inder Singh

..... Petitioner

Versus

Gurmail Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Kashish Garg, Advocate
for the petitioner.

Mr. Rajan Bansal, Advocate
for respondent No.1.

ANIL KSHETARPAL, J. (ORAL)

Defendant-petitioner is in the revision petition against the order passed by the learned trial Court dismissing the application for permission to lead secondary evidence of a registered Will pleaded in the written statement.

Learned trial Court has dismissed the application on the ground that the defendant-petitioner has failed to prove loss of the document in strict terms. In the considered opinion of this Court, the loss of document can be only proved once the party is granted opportunity to lead evidence. In the considered opinion of this Court, such application should not be dismissed on this ground. The application for secondary evidence can always be allowed, subject to the proof of existence and the loss thereof. On allowing of an application for secondary evidence, the Court does not opine about the correctness and genuineness of the Will. The Court only

grants permission to the party to lead the evidence otherwise than primary.

In view thereof, the order under challenge is set aside. The application under Section 65 of the Evidence Act is allowed. The defendant-petitioner is permitted to lead secondary evidence, subject to proof of existence of the original document and the loss thereof.

Revision petition is allowed.

10.05.2018
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	Yes / No
Whether Reportable	Yes / No