

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

CR No.8555 of 2017

Date of Order: 28.02.2018

Karamjit Kaur

....Petitioner

Versus

Kamaljit Kaur and Anr.

....Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Tribhawan Singla, Advocate for the petitioner.

AMIT RAWAL, J (ORAL)

Present revision petition is directed against the impugned order dated 05.8.2017 passed by learned Addl. Civil Judge (Sr. Divn.), Barnala whereby the application of the plaintiff-petitioner for leading secondary evidence for proving writing dated 04.7.2006 has been dismissed.

Learned counsel for the plaintiff-petitioner submitted that the suit was filed for possession by way of partition of property measuring 2 marla as described in the plaint; with further relief of declaration to the effect that she is owner in possession over the passage of 7 feet wide. A photo copy of the afore-mentioned document was placed on record but the same was denied by the respondent in the written statement. He submitted that the document could not be denied and the trial Court ought to have allowed the application. It is submitted that the petitioner has been examined but no suggestion in his cross examination qua the writing was put therefore the impugned order is bad in the eyes of law.

I have heard learned counsel for the petitioner and appraised the paper book.

There has been amendment in the Code of Civil Procedure in

the year 2002 whereby the plaintiff is required to produce the original documents at or before the settlement of issues as per Order 13 Rule 1 CPC. Orders in this respect have already been passed in revision petitions and conveyed to the District & Sessions Judge, Punjab, Haryana and UT Chandigarh to follow the afore-mentioned provisions but the law is not adhered to resulting into filing of such applications. It is settled law that a photo copy of the document cannot be permitted to be led as secondary evidence. The petitioner ought to have tendered some evidence to prove the existence & loss of the document but no such effort has been made.

No ground is made out to entertain the present petition.

Dismissed.

February 28, 2018
manoj

(AMIT RAWAL)
JUDGE

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