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

**Civil Revision No.8394 of 2018
Date of Decision: 10.12.2018**

KRISHAN KUMAR

.....Petitioner

Vs

SANDEEP AND ORS

....Respondents

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

Present: Mr. S.S. Khaira Advocate
for the petitioner.

RAJ MOHAN SINGH, J. (Oral)

[1]. Petitioner has assailed the order dated 15.11.2018 passed by the Civil Judge (Jr. Divn.) Bahadurgarh, vide which application under Section 65 of the Evidence Act filed by the plaintiffs was allowed.

[2]. It has been alleged by the plaintiffs that Will dated 07.11.1988 is in issue. The aforesaid Will was executed and registered by deceased Pali Ram in favour of the plaintiffs. Plaintiffs further alleged that the aforesaid Will was in possession of deceased Rameshwar Dass, father of the plaintiffs and after his death the same could not be located. In the absence of original Will, secondary Evidence was sought to be adduced.

[3]. I have considered the submissions made by learned counsel for the petitioner.

[4]. In **Bipin Shantilal Panchal vs. State of Gujarat, 2001(1) R.C.R. (Criminal) 859**, the Hon'ble Apex Court has laid down that the procedure has been set for receiving the documents, when the same are objected to during trial. The Hon'ble Apex 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 objections has been categorized as an '*archaic practice*'.

[5]. Admissibility, genuineness and validity of document can be gone into by the trial Court at the relevant stage. Though there is no provision for de-exhibiting the document already exhibited in evidence, but the Court can appreciate that if the document is found to be executed on legal parameters, its admissibility can be considered at the relevant stage. If the document is not found to be properly and lawfully executed, the same can be eschewed by the Court at a later stage. However, the attempt of a party for production and to exhibit the document cannot be thrown at this threshold. Reference can be made to **Dr. S.P. Arora vs. Satbir Singh, 2010(5) R.C.R. (Civil) 350** and **Simar Pal Singh vs. Hakam Singh, 2009(14) R.C.R.**

(Civil) 273.

[6]. In U. Sree vs. U. Srinivas, 2013(1) R.C.R. (Civil) 883, the Hon'ble Apex Court has commented that to permit secondary evidence which has been destroyed by the person in whose possession it was and whose it created an enforceable legal right or an obligation, is normally not to be allowed as secondary evidence. The secondary evidence of such a nature may be tempered with or changed and it would be against public policy to take chance of running the risk of fraud being committed.

[7]. In view of above, the indulgence granted by the trial Court in the aforesaid context cannot be held to be an exercise without jurisdiction. This revision petition is found to be totally devoid of merits and the same is accordingly dismissed.

December 10, 2018

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No