

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

212

CR-2434-2017 (O&M)

Date of Decision:22.02.2019

Ram Gopal (deceased) through LRs

....Petitioner

Versus

Dhani Ram and others

....Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. H.K. Aurora, Advocate for the petitioner.

AMIT RAWAL, J. (Oral):-

The present Revision Petition is directed against the impugned order dated 25.11.2016, passed by learned Civil Judge (JD) Jalandhar, whereby in a suit for mandatory injunction seeking a direction against defendant for removing the wall/malba as shown A, B, C, D, E, F & G in the site plan, attached with the plaint, the application of the petitioner to prove sale deed dated 11.10.1971 by way of secondary evidence, has been rejected only on the ground that the plaintiff has not been able to prove loss of the original sale deed.

In my view, the impugned order suffers from illegality and perversity, for, the plaintiff has sought the removal of the wall/malba on the basis of the title by placing on record certified copy of sale deed. The Courts below remained oblivious of the provisions of the law. As and when

such application enclosing certified copy is submitted and the same could be allowed, subject to proof of existence and loss. Impugned order dated 25.11.2016 on such finding is set aside and the application is allowed, subject to the conditions that the petitioner-plaintiff shall prove the “existence” and “loss” in accordance with law.

Civil Revision Petition is allowed.

22.02.2019
anju rani

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned	:	Yes
Whether reportable	:	No