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

**CR-2699-2017 (O&M)
Date of Decision: 25.07.2019**

Hans Raj

..... Petitioner

Versus

Prem Kumar and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. A.K. Walia, Advocate,
for the petitioner.

Mr. R.V.S. Chugh, Advocate,
for respondent Nos.1 and 2.

SUDIP AHLUWALIA, J. (ORAL)

The petitioner, who happens to be respondent No.2 in the original petition pending before the Ld. Civil Judge (Senior Division), Mansa, under Section 372 of the Indian Succession Act, is aggrieved with the impugned order passed by the Ld. Court below on 28.03.2017, vide which his application for directing the Respondent/Prem Kumar to produce the original Partition Deed alleged to be lying in his possession, was rejected.

2. The Ld. Court below was of the view that such prayer could not be allowed in view of the fact that the relevant document, in question, sought to be produced had no relevance in the case, and that the applicants/present respondents had submitted that the aforesaid document was not in their custody. To controvert these observations, it is submitted on behalf of the petitioner that the application filed by the applicants-respondents in the Ld. Court below is for grant of succession on the basis of

an alleged Will executed by father of the parties deceased Pyare Lal, although according to the petitioner, the Will, in question, would not come to his detriment since the disputed property had already been partitioned. Ld. Counsel for the petitioner has further drawn attention of the Court to the statements given by witness Seeta Ram Goyal (PW-4) examined on behalf of the applicants-respondents in which it has been admitted that the original Partition Deed, a copy of which has already been exhibited as Exhibit R2/A, is in possession of applicant No.1, after he had taken its custody by moving an application dated 05.03.2014 (Exhibit R3/A) from the Senior Superintendent of Police, Mansa. In the given circumstances, when the applicant/respondent claims to deny having taken the disputed document by an application moved on his behalf, it is always open for the petitioner to lead appropriate evidence to prove these facts otherwise admitted by PW-4, by way of summoning the relevant file from the office of the Senior Superintendent of Police, Mansa.

3. The petition is, thus, disposed off after modifying the impugned order and granting liberty to the petitioner to get the concerned file summoned from the concerned office expeditiously. He may take appropriate steps for that purpose before the date already fixed in the Ld. Trial Court, which application may be allowed by the Court forthwith to ensure that no unnecessary delay is occasioned.

25.07.2019*Bhumika***(SUDIP AHLUWALIA)
JUDGE**

1. Whether speaking/reasoned: Yes/No

2. Whether reportable: Yes/No