

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

**CR No.7202 of 2018(O&M)
Date of Decision: 02.04.2019**

Harjit Kaur @ Barmeat Kaur and anotherPetitioners

Versus

Bhajan Kaur and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. F.S. Virk, Advocate
for the petitioners.

Mr. Abhay Gupta, Advocate
for respondents No.1 to 4.

RAJ MOHAN SINGH, J.(Oral)

[1]. Petitioners have assailed the order dated 01.10.2018 passed by Civil Judge (Junior Division), Samrala vide which prayer for leading secondary evidence in respect of alleged registered Will dated 23.02.2012 was dismissed.

[2]. Petitioners have set up a Will which was executed by deceased Prem Singh son of Gulzara Singh in their favour. They have alleged that at the time of execution of Will, the Sub Registrar, Samrala had not handed over the Will to the Prem Singh or to the petitioners. After the death of Prem Singh, the

petitioners had applied for certified copy of the Will and the same is in possession of the petitioners. They want to prove the existence of Will by leading secondary evidence by exhibiting the certified copy of registered Will at this stage.

[3]. In view of ratio laid down in **Bipin Shantilal Panchal Vs. State of Gujarat, 2001(1) RCR (Criminal) 859**, the procedure was set for receiving the documents when the same is objected to during trial. Holding up trial on objections at this premature stage would be an 'archaic practice'. Though there is no provision for de-exhibiting the documents, but the offer of the secondary evidence can be impeached in cross-examination. It will be for the Court to examine and decide as to whether it will be appropriate to rely upon such secondary evidence or not. In case, the Court finds that secondary evidence is not reliable, the Court would be at liberty to eschew the same at a subsequent stage. However the attempt of a party for production and to exhibit the document at this stage cannot be thrown at this juncture. Reference can be made to **S.P. Arora Vs. Satbir Singh, 2010(5) RCR (Civil) 350 and Simar Pal Singh Vs. Hakam Singh, 2009(14) RCR (Civil) 273.**

[4]. Authenticity, genuineness and veracity of the document in question would be gone into by the trial Court at the relevant stage. It is also a settled principle of law that mere exhibition of

document does not dispense with proof of its execution. Even if, the will is registered, but at this stage, it will be subject to proof its due execution with reference to legal requirements.

[5]. In view of above, impugned order dated 01.10.2018 passed by Civil Judge (Junior Division), Samrala is set aside. This revision petition is accordingly allowed. Normal consequences to follow.

02.04.2019	(RAJ MOHAN SINGH)
Prince	JUDGE
Whether reasoned/speaking	Yes/No
Whether reportable	Yes/No