

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.1460 of 2019(O&M)
Date of Decision: 01.03.2019

Jasveer Singh

.....Petitioner

Versus

Manjit Kaur and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. P.S. Jammu, Advocate
for the petitioner.

RAJ MOHAN SINGH, J.(Oral)

[1]. The application under Section 65 of the Evidence Act has been allowed by the trial Court. Defendant Jagsir Singh filed an application for leading secondary evidence.

[2]. Plaintiff/petitioner filed a suit for specific performance in respect of agreement to sell dated 02.09.2015. Defendant No.2 while filing the written statement, referred to agreement to sell dated 01.08.2014, claiming the same to be forged and fabricated. The agreement was allegedly executed by the plaintiff in the name of defendant No.2 and his brother Harjit Singh. According to defendant No.2, the same was fraudulent.

The agreement was scribed by Yash Pal Sharma and was signed by marginal witnesses. The original agreement was claimed to be in possession of the plaintiff and defendant wanted to lead secondary evidence in respect of said agreement to sell dated 01.08.2014.

[3]. Plaintiff contested the application on the ground that filing of application was an attempt to delay the proceedings. Plaintiff denied the said agreement to have been executed between the parties.

[4]. Since the defendant has categorically alleged that the agreement in question is in possession of the plaintiff who has denied its existence, therefore, inquiry with regard to existence of the document in terms of Section 65 of the Evidence Act has to be conducted. The indulgence has been granted by the Additional Civil Judge (Senior Division), Phul in favour of defendant No.2 to lead secondary evidence.

[5]. In **Bipin Shantilal Panchal Vs. State of Gujarat, 2001 (1) RCR (Criminal) 859**, the Hon'ble Apex Court has laid down the procedure in respect of receiving the documents in secondary evidence. It has been held that the procedure has been set for receiving the documents when the same are objected to by the opposite party during trial. Hon'ble Apex Court has castigated the practice of holding up trial on

objections taken at the time of tendering documents in evidence. At the relevant stage, asking the Court to pass an appropriate order on objections has been categorized as an 'archaic practice'.

[6]. The admissibility, genuineness and validity of document can be gone into by the trial Court at the appropriate stage. Though there is no provision for de-exhibiting the document already exhibited in evidence, but the Court can appreciate that if execution of document is proved in terms of its admissibility, the Court can rely upon such document at the relevant stage. If the admissibility is not proved, in such eventuality, the Court can eschew the same. Reference can be made to **Dr. S.P. Arora Vs. Satbir Singh, 2010(5) RCR (Civil) 350** and **Simar Pal Singh Vs. Hakam Singh, 2009(14) RCR (Civil) 273.**

[7]. For the reasons recorded hereinabove, I do not see any justification to entertain the present revision petition. This revision petition is accordingly dismissed.

01.03.2019

Prince

(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No