

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

202

CR-2312-2015

DATE OF DECISION: 06.01.2020

BIRBAL AND ANR

... Petitioner(s)

Versus

RAM KARAN AND ORS

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. Sarvjit Singh Khurana, Advocate for the petitioner(s).

Mr. Arvind Kumar Yadav, Advocate for
respondents No.1 to 4.

ANUPINDER SINGH GREWAL, J. (ORAL)

The petitioners have challenged the order dated 18.02.2015 (Annexure P-3) whereby their application for seeking permission to lead secondary evidence has been declined.

Learned counsel for the petitioners contends that the petitioners had sought to produce a copy of the resolution of the Gram Panchayat whereby possession of the land had been delivered to the petitioners. The original was in the possession of the erstwhile Sarpanch who had expired. He also contends that the petitioners pray for only one opportunity to produce the copy of the resolution of the Gram Panchayat as secondary evidence.

Learned counsel for the respondents states that the very existence of the resolution is in doubt and, therefore, the petitioners cannot be allowed to produce copy of the resolution as secondary evidence.

Learned counsel for the petitioners has also relied upon the judgment of the coordinate Bench of his Court in the case of **Preeti Arora Vs. Madhu Arora and others, 2017 (2) L.A.R. 530** where in somewhat similar circumstances, the petition was allowed and the petitioner therein was permitted to lead the secondary evidence. It was also held that whether the document is proved or not, is to be adjudicated by the trial Court after appreciation of evidence.

After hearing learned counsel for the parties, I am of the considered view that it would be in the interest of justice, if the petitioner is granted one opportunity to produce copy of the document as secondary evidence subject to payment of reasonable cost.

Consequently, the petition is allowed and the petitioner is granted one opportunity to produce a copy of the resolution as secondary evidence subject to payment of Rs.5,000/- as cost to the respondents.

Needless to observe that the onus to prove admissibility and existence of the document shall, of course, be upon the petitioners which shall be adjudicated upon by the trial Court in accordance with law.

(ANUPINDER SINGH GREWAL)
JUDGE

06.01.2020.

SwarnjitS

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No