

CR-6166-2017(O&M) 1

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

**CR-6166-2017(O&M)
Date of decision: 26.2.2020**

Rajinder Kumar and others

.....Petitioners

Versus

Satish Kumar and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Lekh Raj Sharma, Advocate for the petitioners

Mr. Amit Chaudhary, Advocate for the respondents

ANIL KSHETARPAL, J. (ORAL)

Learned Trial Court in exercise of its jurisdiction has allowed the plaintiff to prove document (alleged sale deed) on the ground that the original one has been lost by the plaintiff. Learned Court while passing the order has observed as under:-

“5. In the considered opinion of this court, for making out a case for leading secondary evidence, the applicant-plaintiff is required to prove only loss of the document. From the averments made in the application, it is prima facie proved that the said original sale deed is available and thus, same has been lost. The contention of learned counsel for defendant that the said document is forged and fabricated is devoid of merits as defendant shall have opportunity

to rebut the said evidence. Further, mere fact that the plaintiff is granted permission to lead secondary evidence does not go onto show that the said document is admitted in evidence. Rather, the plaintiff is required to prove the same as per law.”

Learned counsel for the petitioners submits that the Court has presumed that the document is in existence. He submits that at this stage, such finding cannot be recorded.

While allowing the application for permission to lead secondary evidence, the order is subject to existence of the original document and loss thereof. In view thereof, the apprehension expressed by the learned counsel for the petitioners is wholly mis-placed.

Disposed of.

26.2.2020

rekha

Whether speaking/reasoned

Whether Reportable

(ANIL KSHETARPAL)

JUDGE

Yes / No

Yes / No