

CR No.326 of 2019

Date of Decision:17.08.2022

Mohinder Singh (now deceased) through his LR's

...Petitioners

Versus

Kuldip Singh Bhullar

...Respondent

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Sumeet Mahajan, Senior Advocate with
Mr. Saksham Mahajan, Advocate
for the petitioners.

Mr. Akshay Bhan, Senior Advocate with
Mr. Vaibhav Sehgal, Advocate and
Mr. Sushant Kharij, Advocate
for the respondent.

ANIL KSHETARPAL, J. (ORAL)

The plaintiff in a suit for grant of permanent injunction restraining the defendant, his agents, assignee, legal representatives or anybody else on behalf of the defendant from interfering in the peaceful possession of the plaintiff with respective land measuring 3 bighas 2 biswas, is the petitioner herein. His application under Section 65 of the Indian Evidence Act, 1872 for permission to lead secondary evidence has been dismissed.

This bench has heard the learned counsel representing the parties.

In view of the detailed judgment passed in **Vinod Kumar vs. Satbir Singh (Civil Revision No.2575/2020) decided on 03.03.2021, Madan vs. Shankar and others (RSA No.327 of 1989) decided on 01.11.2018** by this Court and **Civil Revision application No.82 of 2016 decided on 10.11.2017** by the Bombay High Court, the revision petition is disposed of while permitting the plaintiff to lead evidence. The requirement of filing an

application for permission to lead secondary evidence is not supported by any statutory provision. The Court will examine the evidence led and thereafter decide whether such evidence led is primary or secondary. At that stage, the Court will also examine whether the plaintiff has fulfilled all the parameters to lead secondary evidence or not.

Consequently, the order under challenge is set aside as it has become inoperative.

With all these observations, the present petition is disposed of.

All the pending miscellaneous applications, if any, are also disposed of.

August 17, 2022
P.Bhatt

(ANIL KSHETARPAL)
JUDGE

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