

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 2173 of 2017 (O&M)

Date of Decision: 09.05.2022

Tej Mann Singh

... Petitioner(s)

Versus

Lalita Grewal

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Akaant Kumar Mittal, Advocate
for the petitioner(s).

Mr. G.S.Madaan, Advocate
for the respondent.

Anil Kshetarpal, J.

1. The trial Court has permitted the defendant to prove the Will by leading secondary evidence. The petitioner claims that such permission cannot be granted without the proof of loss of the original Will.

2. There is no provision for filing an application to seek prior permission of the Court to lead secondary evidence. The Supreme Court, in *Dhanpat v. Sheo Ram (Deceased) through Legal Representatives and Others (2020) 16 SCC 209*, has held that secondary evidence can be permitted to be produced and the Court, after evaluating the evidence. A wrong practice of filing applications for permission to lead secondary evidence has been adopted by the trial Courts. The Bombay High Court, in Civil Revision No. 82 of 2016, has deliberated on the aforesaid issue in detail and held that the provision of Section 65 of the Evidence Act, 1872,

does not prescribe filing of an application for permission to lead secondary

evidence. This Court, in *Vinod Kumar v. Satbir Singh (Civil Revision No. 2575-2020, decided on 03.03.2021)* has followed the same view.

3. Keeping in view the aforesaid facts, no ground is made out to interfere. Hence, the present revision petition is dismissed.

4. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

May 09, 2022

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No