

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-6921 of 2015 (O&M)
Date of decision: 24.11.2022

Gursharanjit Kaur

..Petitioner

Versus

Sukhjot Singh Sandhu and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Anish Setia, Advocate and
Mr. Tarun Sharma, Advocate
for the petitioner.

Mr. B.D.Sharma, Advocate
for respondent no.1, 10 and 11.

ANIL KSHETARPAL, J(Oral)

Defendant no.4, in a pending suit before the trial Court, is the petitioner herein. His application for permission to lead secondary evidence in order to prove the registered sale deed and registered Will has been dismissed on the ground that he has failed to prove the loss of documents and the case is at the fag end.

This revision petition has been filed challenging the correctness of the order passed by the trial Court on 17.09.2015.

This Bench has heard the learned counsels representing the parties at length and with their able assistance perused the paper book.

After discussing the various provisions of the Civil Procedure Code, 1908, the Indian Evidence Act, 1872 and the High Court Rules and Orders, this court in **Vinod Kumar vs. Satbir Singh (Civil Revision No.2575 of 2020, decided on 03.03.2021)** and **Madan vs. Shankar and others (RSA-327-1989 decided on 01.11.2018)** has held that there is no provision for

filing an application for permission to lead secondary evidence. The Bombay High Court, on 10.11.2017, while deciding Civil Revision application No.82 of 2016, directed the trial courts to stop the practice of requiring applications for permission to lead secondary evidence, particularly when it is not supported by any provision of law. Recently, the Hon'ble Supreme Court in **Dhanpat vs. Sheo Ram, 2020 SCC Online SC 606**, has, also, held on similar lines.

Keeping in view the aforesaid facts, the impugned order passed by the trial Court is set aside, being erroneous. The trial Court is directed to grant the petitioner (defendant no.4) another opportunity to prove the registered sale deed and the registered Will. At the time of final hearing of the suit, the Court shall, firstly, determine 'whether the evidence led is primary or secondary?' If it is found that the evidence led is secondary, then the Court shall further determine 'whether such evidence is admissible as per the parameters laid down in the Indian Evidence Act, 1872?'

Disposed of accordingly.

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

November 24, 2022

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**(ANIL KSHETARPAL)
JUDGE**

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>