

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

107

CR-7952 of 2018
Date of Order: 06.05.2022

Lal Chand

..Petitioner

Versus

Smt. Darshna and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Manoj Kumar Tanwar, Advocate, for the petitioner.
Mr. Vivek Singla, Advocate, for the respondents.

ANIL KSHETARPAL, J(Oral)

The plaintiff's application for permission to lead secondary evidence with respect to a testament has been dismissed by the trial court on the ground that the petitioner failed to lead evidence with regard to loss of the primary document i.e. testament.

In the considered view of the court, no application for permission to lead secondary evidence is required to be filed. This Court in CR No.2575 of 2020 (**Vinod Kumar vs. Satbir Singh**), after relying upon the judgment passed by the Supreme Court as well as by the Bombay High Court, has held that there is no provision for filing application for permission to lead secondary evidence either under the Evidence Act, under the CPC or under the High Court Rules and Orders.

The Hon'ble Supreme Court in **Dhanpat vs. Sheo Ram through LRs and others' (16) SCC 209** has expounded on the subject and held that no separate application is required to be filed.

Keeping in view the aforesaid facts, the order under challenge is set aside. The plaintiff shall be permitted to lead evidence. Thereafter, the Court will examine as to whether the plaintiff has fulfilled the parameters of Section 65 of the Evidence Act or not?

The revision petition is allowed.

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

May 06, 2022

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(ANIL KSHETARPAL)
JUDGE

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