

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-8818-2017 (O&M)
Date of decision: 29.08.2022

Mohd. Nisar

..Petitioner

Versus

Lal Mohd and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Saqib Ali Khan, Advocate,
for the petitioner.

Mr. Himanshu Puri, Advocate, for
Mr. Sunny K. Singla, Advocate,
for respondents no.2 to 4.

ANIL KSHETARPAL, J(Oral)

The application filed by the defendants for permission to lead secondary evidence to produce “Yadast Biha Jubani/memorandum of oral gift deed dated 21.10.2010, has been allowed.

The plaintiff (petitioner) claims that it is a case of forgery.

Be that as it may. After noticing that a wrong practice has established in the courts to entertain an application for permission to lead secondary evidence, the Bombay High Court while deciding Civil Revision application No.82 of 2016, decided on 10.11.2017, 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. Thereafter, this court in **Madan vs. Shankar and others (RSA-327-1989 decided on 01.11.2018)** held that there is no provision for filing an application for permission to lead secondary evidence. In a recent judgment passed by the Supreme Court in **Dhanpat vs. Sheo Ram, 2020 SCC Online**

SC 606, a similar observation has been made.

Keeping in view the aforesaid position, the revision petition is disposed of while directing the trial Court to permit the defendants to lead evidence. After the evidence has been lead, the Court shall examine whether such evidence is primary or secondary? If it is found that the evidence led is secondary, then the Court shall further examine whether such evidence fulfills the parameters laid under the Indian Evidence Act, 1872, with regard to the admissibility of secondary evidence.

Disposed of accordingly.

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

August 29, 2022
nt

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No