

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Sr.No.120

CR No.897 of 2022

Date of Decision: 15.03.2022

Amarjit Singh

...Revisionist-Petitioner

Versus

Harnek Singh and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present: Mr. Munish Garg, Advocate,
for the revisionist-petitioner.

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MEENAKSHI I. MEHTA, J

Feeling aggrieved by the order dated 04.10.2021 (Annexure P-8) passed by the Civil Judge (Junior Division), Barnala, whereby the application (Annexure P-6) moved by the petitioner (the plaintiff in the Civil Suit) for seeking permission to lead secondary evidence has been dismissed, he has chosen to prefer the instant revision petition.

Shorn and short of unnecessary details, the facts culminating in the present revision petition, are that the petitioner-plaintiff has filed a Civil Suit seeking a decree for declaration to the effect that he as well as respondents-defendants No.4 to 8 are owners of the land measuring 24 Kanal in equal shares and that the mutations sanctioned in favour of respondents-defendants No.1 to 3 qua the said land are null and void, while, *inter-alia*, averring therein that defendant No.1 Harnek Singh had given a writing regarding his having received his share in the property. The petitioner moved application Annexure P-6 for seeking permission to

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lead secondary evidence in respect of the said writing/document on the ground that the original version thereof was in possession of respondent-defendant No.7 and he (petitioner) was having only the photocopy of the said document. Vide the impugned order, this application has been dismissed.

I have heard learned counsel for the revisionist-petitioner in the instant revision petition and have also perused the file thoroughly.

Learned counsel for the petitioner contends that the above-said original writing is in possession of respondent-defendant No.7 but he denied the said fact and did not produce the same in the Court and the petitioner is having the photocopy of this document and in these circumstances, he should have been allowed to lead secondary evidence in respect thereof.

Before advertng to the discussion on the merits of the matter in hand, it is pertinent to mention here that in the application Annexure P-6, the petitioner has averred that the said original writing is in possession of respondent-defendant No.7 and that he did not produce it in the Court but however, Annexure P-3 is the application moved by him earlier for seeking direction to respondent-defendant No.7 to produce the same in the Court while claiming that the above-said document was in possession of respondent-defendant No.1 and therefore, he be directed to produce it in the Court. Thus, it is explicit that in both the afore-said applications, the petitioner has put forth two different/contradictory versions qua the person, who is alleged to be in possession of the said

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original document and this fact, itself, casts a shadow of doubt on the entire version of the petitioner qua the said document/writing.

Even otherwise, in case respondent-defendant No.1 is taken to be in possession of the said original document, then it is worth-while to mention here that in his reply Annexure P-4 to the application Annexure P-3 as moved by the petitioner for seeking direction to produce the said original document in the Court, this respondent-defendant had categorically denied the factum of its existence as well as his being in possession thereof and had, rather, alleged that the said document was false and fabricated. Thus, the very existence of the said document has specifically been denied by the said respondent-defendant. Even otherwise, throughout in his application Annexure P-3, the petitioner has nowhere disclosed as to how, when and under what circumstances the said writing, as claimed to have been executed by the afore-named respondent-defendant No.1 himself, was retained by or was handed over to him only.

Further, if respondent-defendant No.7 is considered to be in possession of the afore-mentioned original writing, then, in normal course of events, it seems highly improbable that he, being one of the proforma defendants as mentioned in the array of parties in Plaint Annexure P-1 and thus, supposed to be the beneficiary of the said document, would not have produced the same on the record and would have denied the factum of his being in possession thereof.

As a sequel to the fore-going discussion, it follows that the impugned order does not suffer from any illegality, infirmity, irregularity

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or perversity so as to warrant any interference by this Court. Resultantly,
the present revision petition, being *sans* any merit, stands dismissed.

15.03.2022	(MEENAKSHI I. MEHTA)
neetu	JUDGE
<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>No</i>