

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

CR 5853/2022

Date of decision: 12.12.2022

Jagtar Singh

.....Petitioner

Vs.

Mandir Shri Sat Narain Trust and another

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Rakesh Sobti, Advocate for the petitioner.

Nidhi Gupta, J.

Prayer in this revision petition is for setting aside the order dated 29.11.2022 (Annexure P-8) passed by learned Executing Court i.e. Civil Judge (Junior Division) Amritsar in case titled 'Mandir Shri Sat Narain Trust v Karnail Singh' bearing No. Execution/26226/2013 whereby the learned Executing Court has closed the secondary evidence of the petitioner.

At the very outset, learned counsel for the petitioner is unable to dispute the following facts: that vide order dated 10.10.2022, petitioner/JD/Objector was permitted to lead secondary evidence, which is copy of judgment dated 19.11.1989 decided by the then SJIC, Amritsar in Civil Suit No.112 of 1981/1984. The learned Executing Court granted permission to lead secondary evidence in view of the fact that when the petitioner applied to Judicial Record Room to file certified copy of the said judicial record, it was reported by the Clerk concerned that the same had been burnt in a fire accident in November 2015, and as it was claimed by the petitioner that production of said document

was very much necessary and no prejudice would be caused to the other side. Accordingly, the matter was adjourned to 4.11.2022 to enable the petitioner to produce said evidence. However, perusal of the order dated 4.11.2022 (Annexure P-7) shows that the petitioner failed to produce the said evidence. The learned Executing Court adjourned the matter yet again to 29.11.2022 for production of said evidence subject to last opportunity. The petitioner failed to produce the secondary evidence on 29.11.2022 also. It is in these circumstances that the matter has now been adjourned to 13.12.2022 for final consideration as the petitioner has failed to honour the last opportunity granted to him vide order dated 4.11.2022.

It is submitted by the learned counsel for the petitioner that the judgment dated 19.9.1989 was duly produced by him but has not been tendered as evidence. When questioned as to in what manner said judgment was produced by the petitioner before the learned Executing Court, a reference to his application (Annexure P-5) for leading secondary evidence is made to submit that it was appended as Annexure along with the said application. However, perusal of the said application at Annexure P-5 shows that, that is not the case. No annexure is mentioned in said application. In any event, it is clear that the petitioner was granted two opportunities to lead secondary evidence. However, even now Id. Counsel is unable to give any reasons as to why secondary evidence was not produced by him.

Accordingly, finding no error in the impugned order dated 29.11.2022, the present revision petition is dismissed.

(Nidhi Gupta)
Judge

12.12.2022

Joshi

RAJINDER PARSHAD JOSHI
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I attest to the accuracy and
integrity of this document