

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-7739-2019 (O&M)

Date of decision: 31.08.2022

Daljeet Singh and others

..Petitioners

Versus

Balbir Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.B.S.Bhalla, Advocate,
for the petitioners.

Mr. N.K.Manchanda, Advocate
for respondent no.1.

ANIL KSHETARPAL, J(Oral)

While assailing the correctness of an interlocutory order passed by the trial court, permitting the plaintiffs to produce secondary evidence of a settlement deed, the defendant no.1 has filed the present revision petition.

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

After noticing that a wrong practice has established in the courts to make an application for permission to lead secondary evidence a requisite, 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 as a mandate, 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 a mandatory application for permission to lead the 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 plaintiffs to lead secondary evidence. After such the evidence has been led, the Court shall examine, “As to 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 all 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 31, 2022
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(ANIL KSHETARPAL)
JUDGE

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