

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

CR-3820-2019(O&M)

Date of decision:-16.2.2023

Indira Gupta

...Petitioner

Versus

Mahinder Singh and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Sanjiv Gupta, Advocate
for the petitioner.

Mr.Chetan Bansal, Advocate
for the respondents.

H.S. MADAAN, J.

1. Feeling aggrieved by the order dated 24.5.2019 passed by Civil Judge (Jr.Divn.), Patiala declining an application filed by the plaintiff for exhibiting the documents already placed on record, such plaintiff has approached this Court by way of filing the present revision petition, notice of which was given to the respondents/defendants, who have put in appearance through counsel.

2. I have heard learned counsel for the parties besides going through the record.

3. The plaintiff had filed the application in question contending that the plaintiff had purchased the property in question from Smt.Mukandi Bai, deceased mother of contesting defendant Mohinder

Singh; Smt.Mukandi Bai had handed over all the original documents of the property while executing the documents for transfer of title as per local convention and practice; the plaintiff had produced all the original documents in cross examination of the contesting defendants, which have been marked but those documents, which are more than 30 years old need to be exhibited, as per the provisions of Section 90 of the Indian Evidence Act, 1872, therefore such documents already marked as PB to PR be exhibited as per law.

4. This application was opposed by defendant No.1 and after hearing learned counsel for the parties, the application was dismissed by the trial Court of Civil Judge(Jr.Divn.), Patiala vide order dated 24.5.2019, leaving the plaintiff aggrieved.

5. Section 90 of the Indian Evidence Act, 1872 deals with presumption as to documents thirty years old dilating that where any document, purporting or proved to be thirty years old, is produced from any custody which the Court in the particular case considers proper, the Court may presume that the signature and every other part of such document, which purports to be in the handwriting of any particular person, is in that person's handwriting, and, in the case of a document executed or attested, that it was duly executed and attested by the persons by whom it purports to be executed and attested. The explanation to the section clarifies as to what is the proper custody of a document.

6. In this case, the documents in question are already on record having been put to contesting defendants during cross-examination. It is for the Court concerned to see as to how much evidentiary value is to be

attached to such documents and the proper stage for that purpose would be when the arguments are heard. The plaintiff may then convince the Court that the necessary conditions provided under Section 90 of the Act are fulfilled in this case, therefore the documents in question be read in evidence. Moving application for exhibiting the documents at this stage has not been found proper and appropriate by the trial Court resulting in dismissal of the application.

It may be clarified here that merely by marking a document or even exhibiting it does not make it admissible unless it is found by the Court that such document has been properly proved as per the legal requirements.

7. Therefore, I do not find any reason to set aside the impugned order. However, the revision petition is disposed of with the observations above.

Since the main revision petition has been disposed of, the miscellaneous application(s), if any, also stand disposed of accordingly.

16.2.2023
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No