



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.5619 of 2017 (O&M)

Date of Order:07.05.2024

Prabhu Dayal

.Petitioner

Versus

Reena Devi and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Saurabh Bajaj, Advocate
for the petitioner.

None for the respondents.

ANIL KSHETARPAL, J

1. Called twice.
2. The learned counsel representing the respondents did not enter appearance. On 02.09.2022, also the learned counsel representing the respondents was not present.
3. In this revision petition, the petitioner assails the correctness of the interlocutory order passed by the trial court on 19.07.2017, while dismissing his application for permission to prove the panchayati faisla dated 12.09.2012. The Court has dismissed the application on the ground that proper explanation of absence of document has not come forward and there is no averment in the plaint that the panchayati faisla was reduced into writing. The plaintiff has also not disclosed the fact that he is not in possession of the panchayati faisla.
4. The learned counsel representing the petitioner while relying upon the judgment passed in Madan Lal Vs. Shankar and others (RSA-327-



1989, decided on 01.11.2018), submits that an application for permission to lead secondary evidence was filed on account of wrong advice and there is no provision for seeking prior permission to lead secondary evidence.

5. This court has considered the submissions of the learned counsel representing the petitioner.

6. In fact, a significantly large number of cases have been decided after examining the provisions of the Indian Evidence Act, 1872, the Code of Civil Procedure, 1908 and the High Court Rules and Orders. It has been found that there is no provision for filing an application for permission to lead secondary evidence.

7. Similar view has been taken by the Bombay High Court in Civil Revision No.82 of 2016, decided on 10.11.2017, wherein it has been held that such applications are being filed under misconception which has now attained proportions of an epidemic. Even the Supreme Court in **Dhanpat Vs. Sheoram (Deceased) through LRs and others, 2020 SCC online SC 606** made observations in this regard.

8. In **Civil Revision No.2575 of 2020, titled as “Vinod Kumar Vs. Satbir Singh”, decided on 03.03.2021**, this Court has held as under:-

“Keeping in view the aforesaid facts, this Court is of the opinion that the order under challenge cannot be sustained. This order is declared to be inoperative. The Civil Court is directed to decide the aspect of admissibility of the secondary evidence while deciding the suit. Needless to observe that the plaintiff shall not be denied an opportunity to lead the relevant evidence. The



trial court while finally deciding the case will be entitled to evaluate such evidence and decide whether the plaintiff has successfully proved the existence, validity and genuineness of the agreement to sell and the receipt thereof by way of secondary evidence.”

- 9. With these observations, the present petition is allowed.
- 10. All the pending miscellaneous applications, if any, are also disposed of.

May 07, 2024
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned

:YES/NO

Whether reportable

:YES/NO