

CR-1977-2022(O&M)

2024:PHHC:051627

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135 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-1977-2022(O&M)
Date of decision :16.04.2024

Subh Ram and another

...Petitioners

Vs.

Rajeev Sultania

...Respondent

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rao Ajender Singh, Advocate
for the petitioners.

Mr. Anoop Kumar Yadav, Advocate
for the respondent.

ANIL KSHETARPAL, J. (Oral)

1. This revision petition has been filed by the petitioners to challenge the correctness of interlocutory order passed by the trial Court on 21.04.2022 while dismissing their application for permission to lead the secondary evidence of the registered sale deed.
2. The petitioners' claim that the copy available in the office of the Sub Registrar has been tempered with and therefore, they should be permitted to produce photocopy of the original in secondary evidence.
3. The trial Court has dismissed the application on the ground that the applicant has not summoned the concerned Investigating Officer, who is alleged to have misplaced the aforesaid sale deed.
4. Learned counsel representing the petitioners submits that unless the petitioners are granted permission to lead secondary evidence, the

deposition of Investigating Officer cannot be examined. He further submits that there is no requirement of filing an application to lead secondary evidence.

5. *Per contra*, learned counsel representing the respondent submits that in absence of evidence to prove that certified copy of the sale deed handed over by the petitioners to the Investigating Officer has been misplaced, the secondary evidence cannot be allowed.

6. This Court has considered the submissions of learned counsel representing the parties.

7. In fact, after examining the provisions of Indian Evidence Act, 1872, the Code of Civil Procedure, 1908 and the High Court Rules and Orders, in **“Madan Lal Vs. Shankar and others”, RSA-327-1989, decided on 01.11.2018**, this Court came to the conclusion that there is no provision for filing an application for permission to lead secondary evidence.

8. In Civil Revision application No. 82 of 2016, decided on 10.11.2017, the Bombay High Court also held that such applications are being filed under misconception, which has now turned into epidemic. Even, the Supreme Court in **‘Dhanpat Vs. Sheoram (Deceased) through LRs and others’, 2020 SCC online SC 606**, has held that there is no requirement of filing application for permission to lead secondary evidence.

9. Keeping in view the aforesaid facts, the revision petition is allowed. The petitioners shall be permitted to lead evidence. Once the evidence has been led, the Court will decide the aspect of admissibility of

secondary evidence while deciding the suit. The trial Court while finally deciding the suit will be entitled to evaluate such evidence and decide whether the defendants have specifically proved the existence, validity and genuineness of the sale deed and the receipt thereof by way of secondary evidence.

16.04.2024

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(ANIL KSHETARPAL)

JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No