



In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 990 of 2020 (O&M)

Date of Decision: 14.05.2025

Bhagwat Prashad and Another

... Petitioner(s)

Versus

Amar Singh and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

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

Mr. Baljeet Beniwal, Advocate
for respondent No.2.

Anil Kshetarpal, J.

1. The prayer of the petitioners to permit them to prove the affidavit of sale by way of secondary evidence has been dismissed by the Trial Court which is challenged in the present revision petition.

2. In *Ashok Kumar v. Sudesh Rani and Another (Civil Revision No. 8166 of 2018, decided on 21.07.2023)*, this Court, after examining the provisions, has held as under:-

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

5. *In Civil Revision Application No.82 of 2016, decided on 10.11.2017, Bombay High Court also 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.”*

3. Keeping in view the aforesaid deliberations, this Court is of the opinion that the order under challenge is not sustainable. Hence, the present revision petition is allowed and the impugned order is set aside. The Tribunal is directed to decide the aspect of admissibility of the secondary evidence while deciding the main claim petition.

4. Needless to observe that the petitioners shall not be denied an opportunity to lead the relevant evidence. The Tribunal, while finally deciding the case, shall be entitled to evaluate such evidence and decide as to “whether the petitioners have successfully proved the existence, validity and genuineness of the affidavit by way of secondary evidence?”

5. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

May 14, 2025
“DK”

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