

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

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CR No.755-2025

Date of decision: 05.02.2025

Gurcharan Singh and Anr

.....Petitioners

Versus

Beant Singh and Anr

.....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Anoop Singla, Advocate
for the petitioner.

VIKAS BAHL, J (ORAL)

1. This revision petition has been filed under Article 227 of the Constitution of India challenging the order dated 15.01.2025 passed by the Additional Civil Judge (Sr. Division), Nihal Singh Wala, District Moga whereby application filed by the petitioners for directing the plaintiff to produce the documents i.e Original pronotes and receipts dated 19.11.2015 and the original agreement dated 19.11.2015 or in alternative to produce the secondary evidence, has been dismissed.

2. A perusal of order dated 15.01.2025 passed by the trial Court would show that the application filed by the petitioners/defendant Nos.2 & 3 for directing the plaintiffs to produce the original pronotes and receipts dated 19.11.2015 and the original agreement dated 19.11.2015 and in alternative to lead secondary evidence, had been dismissed on the ground that in the written statement filed on behalf of defendant Nos.2 & 3, the petitioners had nowhere pleaded that any such transaction took place between them and the plaintiff-respondent No.1 on 19.11.2015 and no reference had been made to the pronotes and receipts or even the agreement dated 19.11.2015 in the said written statement and thus the petitioners could not be permitted to lead evidence beyond pleadings, as it is settled proposition of law that no evidence beyond pleadings is admissible. It was further observed by the trial Court that the stand taken by the petitioners in the application dated 10.07.2024 was contrary to the stand taken in the written

statement. In the written statement, it had been stated that respondent No.1-



plaintiff had received full consideration amount from defendant Nos.2 & 3 in the presence of the marginal witnesses after the execution of the mortgage deed, whereas in para 4 of the application dated 10.07.2024 (Annexure P-3), the petitioners had taken a plea that on 19.11.2015, respondent No.1-plaintiff had taken a loan of Rs.33,50,000/- from the petitioners and executed two pronotes and receipts in favour of the petitioners and had thereafter, on account of inability to pay the said amount, executed the mortgaged deed.

3. Learned counsel for the petitioners has fairly conceded that no plea with respect to the pronotes/receipts as well as agreement dated 19.11.2015 has been raised in the written statement and thus he has not been able to show that the finding of the trial Court on the said aspect is perverse. Moreover, no law is cited that even documents beyond pleadings can be sought to be produced or secondary evidence regarding the same is admissible. Even, the finding with respect to the contradiction in the written statement and the application dated 10.07.2024 could not be shown to be perverse before this Court. Moreover, it is not in dispute that the evidence of respondent No.1-plaintiff has been completed. No question with respect to the said document, by way of suggestion was put to PW1 by the petitioners and the present case is now fixed for the evidence of the petitioners/defendants and thus by way of pleading a new version, the petitioners are trying to fill up the lacuna, which would resultantly delay the trial.

4. Keeping in view the abovesaid facts and circumstances, I find that the impugned order is in accordance with law and the same deserves to be upheld.

5. Finding no merit in the present petition, the same is dismissed.

(VIKAS BAHL)
JUDGE

05.02.2025
manoj

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