



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

219

Civil Revision No.1641 of 2023
Date of decision: November 4th, 2025

Manoj Kumar

.....Petitioner

Versus

Munesh

.....Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Ram Kumar Saini, Mr. Ankit Saini
and Ms. Ruby Gupta, Advocates
for the petitioner.

Mr. Mukesh Yadav, Advocate
for the respondent.

VIKAS BAHL, J. (ORAL)

1. This is a revision petition under Article 227 of the Constitution of India for setting aside the impugned order dated 20.02.2023 (Annexure P-8) passed by the learned Additional Civil Judge (Senior Division), Mohindergarh, vide which the application moved by the petitioner for leading secondary evidence has been dismissed.

2. On 18.04.2023, a coordinate Bench of this Court was pleased to pass the following order:

“Present: Mr. Ram Kumar Saini, Advocate, for the petitioner.

Inter alia submits that the trial Court has dismissed the application for leading secondary evidence to prove the pronote by treating it to be a case under Section 65(c) of the Indian Evidence Act, 1872, whereas the case of the petitioner was additionally covered under Section 65(b), which aspect has not been taken into consideration while passing the impugned order.

Notice of motion, returnable for 03.07.2023.

Process dasti as well.

In the meanwhile, the plaintiff's evidence in the affirmative be not closed by order, till the next date fixed before this Court.

April 18, 2023”

3. Learned counsel for the petitioner has submitted that in the present case, the petitioner had filed a suit for recovery of ₹8,50,000/- along with interest and the same was filed on the basis of pronote and receipt dated 26.08.2013. It is submitted that while the evidence of the plaintiff was still going on, the plaintiff wanted to produce on record the receipt and pronote, the original of which was lost, regarding which a lost property report had been registered. It is submitted that the plaintiff also moved an application for secondary evidence although as per settled law, there is no requirement to move any such application but the said application has been dismissed vide order dated 20.02.2023. It is submitted that at the time when the plaintiff is leading his evidence, it is the right of the plaintiff to lead all evidence in support of his case and in case the defendant has any objection to any document being produced, the defendant/respondent can raise the said objection, which has to be considered at the time of final adjudication. It is submitted that the question as to whether the document was in existence or not and also as to whether the said document has been lost and that the lost property report recorded was genuine or not can be considered only after the petitioner/plaintiff has led his entire evidence. It is submitted that by rejecting the application for secondary evidence, the trial Court has foreclosed the suit of the petitioner without any due opportunity having been granted to the petitioner to lead evidence in support of the pronote and receipt and also with

respect to its loss and existence.

4. Learned counsel for the respondent, on the other hand, has submitted that the petitioner had already availed several opportunities to lead his evidence and it was only when the last opportunity was granted that the petitioner had moved the said application for secondary evidence. It is further stated that the lost property report in the present case was stated to be registered on 05.10.2019, whereas the pronote and receipt is dated 26.08.2013. It is submitted that at any rate, in case the petitioner is permitted to produce on record the said pronote and receipt, the respondent be permitted to raise all objections, which are available to her including the objection of inadmissibility, authenticity, lack of proof of existence and loss and other objections, which the respondent wishes to take and the said objections be kept open and the respondent/defendant be also given opportunity to lead her evidence and also to cross-examine the witness of the plaintiff and the said aspect be decided at the time of the final adjudication.

5. Learned counsel for the petitioner has no objection to the said course of action.

6. Keeping in view the abovesaid facts and circumstances and the fair stand taken by learned counsel for the petitioner and the learned counsel for the respondent and also the fact that it is a matter of settled law that both the parties should be given due opportunity to produce their evidence, the present revision petition is partly allowed and the order dated 20.02.2023 is set aside subject to the following observations/directions:

(i) Since admittedly the evidence of the plaintiff/petitioner is still continuing, it would be open to the petitioner to produce the pronote and receipt in his evidence.

(ii) It would also be open to the defendant/respondent to raise all

objections including the objection of admissibility, authenticity, lack of proof of existence or loss etc., which the defendant/respondent wishes to raise at the time when the said documents are tendered.

- (iii) The trial Court would give due opportunity to both the parties to lead their evidence and also to the defendant/respondent to cross-examine the witnesses of the plaintiff on all aspects including the objections raised by the defendant to the production of the said two documents.
- (iv) The trial Court would decide the aspect of admissibility or otherwise of the pronote and the receipt after taking into consideration the objections raised by the defendant/respondent and the entire evidence at the stage of final adjudication.

November 4th, 2025
Puneet

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No