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

CR-2560-2025

Date of decision: 02.05.2025

Bhanu Partap Saini and another

...Petitioners

Versus

Anand Mohan

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Vivek Suri, Advocate and
Mr. Dushyant Godara, Advocate and
Ms. Kritika Sharma, Advocate for the petitioners.

Mr. Hemant Hans, Advocate for the respondent.

VIKAS BAHL, J. (ORAL)

1. This is a revision petition filed under Article 227 of the Constitution of India for setting aside the order dated 09.04.2025 (Annexure P-7) passed by the Additional Civil Judge (Senior Division), Panchkula whereby the application moved by the petitioners for leading secondary evidence in respect of the agreement to sell dated 07.05.2018 and the receipt has been dismissed.

2. On 29.04.2025, this Court had passed the following order:-

*“Present:- Mr. Vivek Suri, Advocate and
Mr. Dushyant Godara, Advocate and
Ms. Kritika Sharma, Advocate for the petitioners.*

Inter alia contends that the agreement to sell dated 07.05.2018 is most relevant document to prove the defence of the petitioners and the pleading regarding the same was made



*in the written statement as well as in the counter claim filed by the petitioners. It is further submitted that it is the case of the petitioners that original is with the respondent who has not produced the same. It is argued that at any rate, the petitioners should be permitted to produce the said document and opportunity should be given to the petitioners to prove the same in accordance with law and also lead evidence on the aspect of the fact that same was executed and original was given to the respondent-plaintiff who has retained it. In support of his arguments, he has relied upon the judgments passed by the Hon'ble Supreme Court in case titled as **Rakesh Mohindra Vs. Anita Beri and others** reported as **2015(4) RCR (Civil) 1023**, **Mst. Bibi Aisha and others Vs. The Bihar Subai Sunni Majlis Avaqaf and others** reported as **1969 AIR Supreme Court 253**, **Kaliya Vs. State of Madhya Pradesh** reported as **2013(3) RCR (Criminal) 958** and judgment passed by this Court in case titled as **Ravinder Singh @ Jassi Vs. Indermohan Singh** reported as **2023(1) CivCC 60**.*

Notice of motion for 02.05.2025.

Notice regarding stay.

To be taken up in the urgent list.

Liberty is granted to the petitioners to serve the respondent through his counsel appearing before the trial Court as well as through dasti process.

29.04.2025”

3. Learned counsel for the petitioners has reiterated the abovesaid arguments and has submitted that at this stage, opportunity should be granted to the petitioners to prove the agreement/receipt in question.
4. Learned counsel for the respondent has submitted that in case the petitioners are granted opportunity to prove the agreement/receipt in question then liberty be granted to the respondent to raise all the objections



at the time when the said agreement is produced and the said objections be decided in accordance with law at the time of final adjudication. It is further submitted that granting permission to the petitioners to lead evidence should not be construed that the agreement and the receipt are exhibited or stand proved.

5. Keeping in view the abovesaid facts and circumstances and fair stand taken on behalf of learned counsel for the petitioners as well as learned counsel for the respondent, the present revision petition is disposed of in the following terms/directions:-

- a) Order dated 09.04.2025 to the effect that the application for secondary evidence filed by the petitioners had been dismissed is set aside.
- b) It would be open to the petitioners to produce the copy/photocopy of the agreement dated 07.05.2018, receipt in their evidence before the trial Court and it would also be open to the respondent to raise all the objections with respect to admissibility, mode of proof, relevance etc. of the said documents.
- c) It would be open to both the parties to lead their respective evidence in support of their pleas. The trial Court would consider all the aspects including the objections raised by the respondent at the stage of final adjudication of the case.

02.05.2025

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No