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

CR-6903-2024 (O&M)

Reserved on : 22.07.2025

Date of Decision : 05.08.2025

Kulwinder Singh

... Petitioner(s)

VERSUS

Nawin C Rajp & Ors

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Parvinder Singh, Advocate for the petitioner.

Mr. Viren Sibal, Advocate for respondent No.1.

ALKA SARIN, J.

1. The present revision petition has been filed under Article 227 of the Constitution of India challenging the order dated 14.11.2024 (Annexure P-12) passed by the Civil Judge (Senior Division), Shaheed Bhagat Singh Nagar, partly allowing an application filed by the plaintiff-petitioner under Section 65 of the Indian Evidence Act, 1872/Section 60 of the Bharatiya Sakshya Adhiniyam, 2023 for permission to lead secondary evidence.

2. Brief facts as relevant to the present *lis* are that the plaintiff-petitioner filed a suit for specific performance of an agreement to sell dated 18.04.1996. It was averred in the plaint that Smt. Tejo Kamal Rajp died in UK and after her death all the defendant-respondents had succeeded to her estate in equal shares. It was the case set up that Tejo Kamal Rajp, during her lifetime, executed an agreement to sell on 18.04.1996 through her attorney, Shri Prem Kumar Purohit vide a General Power of Attorney dated 23.10.1970. It was further averred that the plaintiff-petitioner was a tenant

in the suit property and is in possession of the same. Written statement was filed to the plaint. An application was filed by the defendant-respondent No.1 under Order 7 Rule 11 CPC for rejection of the plaint on the ground that the suit was not within the period of limitation. The said application was dismissed. Aggrieved by the same, a Civil Revision being CR-6617-2015 was filed by the defendant-respondent No.1 and on 20.01.2016 notice of motion was issued and proceedings were stayed. Eventually, CR-6617-2015 was disposed off by a co-ordinate Bench of this Court vide order dated 16.11.2023. Thereafter, an application was filed by the defendant-respondent No.1 under Order 12 Rule 8 read with Order 11 Rule 14 CPC for directing the plaintiff-petitioner to produce the General Power of Attorney dated 23.10.1970 alleged to have been executed by Tejo Kamal Rajp and power of attorney dated 02.09.1998 given by Tejo Kamal Rajp in favour of Parwin Chandra Raj Purohit. The application was disposed off as the plaintiff-petitioner took a stand that the originals were not in his possession. Subsequently, the application under Order 39 Rules 1 and 2 CPC filed by plaintiff-petitioner was dismissed qua which an appeal is pending. The plaintiff-petitioner also filed an application under Section 65 of the Indian Evidence Act, 1872/Section 60 of the Bharatiya Sakshya Adhiniyam, 2023 for production of documents i.e. i) Power of the Attorney dated 02.09.1998; (ii) Twelve Rent Receipts (detailed in para 3 of the application); (iii) Ten Letters addressed to Prem Kumar Purohit (detailed in para 4 of the application); (iv) Two Letters addressed to Nishi Purohit and its Registered Covers (detailed in para 5 of the application); (v) Will dated 29.08.1951 of Kartar Chand in favour of Tejo Kamal Rajp (detailed in para 5 of the

application) as secondary evidence. Reply was filed to the said application. Vide the impugned order dated 14.11.2024 the said application was partly allowed qua leading secondary evidence with respect to the General Power of Attorney dated 02.09.1998 and with respect to the other documents the application was dismissed. Aggrieved by the same, the present revision petition has been filed by the plaintiff-petitioner.

3. Learned counsel for the plaintiff-petitioner would contend that in order to prove the relationship between the executor of the agreement to sell and her Power of Attorney, it was necessary to lead secondary evidence in the shape of 12 rent receipts, 10 letters addressed to Prem Kumar Purohit, 2 letters to Nishi Purohit and a Will dated 29.08.1951 of Kartar Chand in favour of Tejo Kamal Rajp. Learned counsel would further contend that the letters and the rent receipts are necessary to show that it was the Power Attorney holder who was actually doing everything for Tejo Kamal Rajp. It is further the contention that though the documents were handed over in 2014, however, from January 2016 to November 2023 there was a stay of proceedings and, thus, the delay could not be held against the plaintiff-petitioner.

4. *Per contra* the learned counsel for the defendant-respondent No.1 would contend that in the garb of leading secondary evidence, what the plaintiff-petitioner is intending to do is to change the entire nature of the suit by introducing certain rent receipts, letters and a Will dated 29.08.1951 alleged to have been executed by Kartar Chand in favour of Tejo Kamal Rajp and none of which have even been pleaded in the plaint.

5. I have heard the learned counsel for the parties.

6. In the present case the plaintiff petitioner has sought to produce 12 rent receipts (detailed in para 3 of the application), 10 letters addressed to Prem Kumar Purohit (detailed in para 4 of the application), two letters addressed to Nishi Purohit and its registered covers (detailed in para 5 of the application) and Will dated 29.08.1951 of Kartar Chand in favour of Tejo Kamal Rajp (detailed in para 5 of the application) as secondary evidence, which has not been permitted by the Trial Court and the plaintiff-petitioner has been permitted only to lead secondary evidence qua the Power of Attorney dated 02.09.1998. The argument of the learned counsel for the plaintiff-petitioner that the said evidence was necessary to prove that the Power of Attorney holder was infact doing everything for Tejo Kamal Rajp and, therefore, the evidence is necessary, deserves to be rejected. A perusal of the plaint reveals that it was never the case of the plaintiff-petitioner that any rent was being collected by the Power of Attorney holder on behalf of Tejo Kamal Rajp. Further, there is no reference to any letters in the plaint. Even the Will of Kartar Chand is being sought to be set up for the first time by way of leading secondary evidence. Without there being any basis in the pleadings, secondary evidence cannot be allowed to be led by the plaintiff-petitioner. It is trite that no amount of evidence can be looked into in the absence of any pleadings. The learned counsel for the plaintiff-petitioner when confronted as to whether there were any pleadings qua the letters, the rent receipts and the Will, has candidly admitted that there are no pleadings to this effect in the plaint. In the absence of any pleadings, the evidence would be meaningless inasmuch as the said evidence cannot be looked into by the Court as the pleadings itself are missing from the plaint.

7. In view of the above, I do not find any merit in the present revision petition. The same being devoid of any merit is accordingly dismissed. Pending applications, if any, also stand disposed off.

8. It is made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

05.08.2025
Yogesh Sharma

(**ALKA SARIN**)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO