



IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CR No.1683 of 2024 (O&amp;M)

Date of Order:30.04.2025

Narvada Shukla

.Petitioner

Versus

Rohit Shukla and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Aayush Gupta, Advocate  
for the petitioner.

Mr. Abhishek Sharma, Advocate  
for the respondents.

**ANIL KSHETARPAL, JUDGE (Oral)**

1. The petitioner herein is a defendant in a pending plaintiffs' suit for grant of decree of declaration to the effect that plaintiff no.1 and the defendants are co-owners of the suit property and Will dated 15.11.2017, allegedly executed by Sh. Sham Sunder is forged and fabricated.
2. During the pendency of the suit, the petitioner filed an application for permission to lead secondary evidence, which has been dismissed by the Court.
3. In fact, the aforesaid issue is no longer *res integra* in view of the judgment passed in **Madan Lal vs. Shankar and others (RSA No.327 of 1989, decided on 01.11.2018)**, wherein it was held that there is no provision that mandates filing an application for permission to lead secondary evidence as it can be lead by the parties without filing an application subject to the provisions governing admissibility of evidence.
4. The Bombay High Court in Civil Revision 82 of 2016, decided



on 10.11.2017, has held that such applications are being filed under misconception. The court held that such practice has now attained the status of an epidemic and it must be stopped. The Supreme Court in **Dhanpat Vs. Sheoram (Deceased) through LRs and others, 2020 SCC online SC 606**, also made observations in this regard.

5. In **Civil Revision No.2575 of 2020, titled as "Vinod Kumar Vs. Satbir Singh"**, **decided on 03.03.2021**, this Court has held as under:-

*"Keeping in view the aforesaid facts, this Court is of the opinion that the order under challenge cannot be sustained. This order is declared to be inoperative. The Civil Court is directed to decide the aspect of admissibility of the secondary evidence while deciding the suit. Needless to observe that the plaintiff shall not be denied an opportunity to lead the relevant evidence. The trial court while finally deciding the case will be entitled to evaluate such evidence and decide whether the plaintiff has successfully proved the existence, validity and genuineness of the agreement to sell and the receipt thereof by way of secondary evidence."*

6. With these observations, the present petition is allowed.

7. Needless to observe that the defendant shall not be denied an opportunity to lead the relevant evidence.

8. All the pending miscellaneous applications, if any, are also disposed of.

(ANIL KSHETARPAL)  
JUDGE

April 30, 2025

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