

(2001) 04 P&H CK 0003

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 3621 of 2000

Balkar Singh

APPELLANT

Vs

Kishori Lal

RESPONDENT

Date of Decision: April 20, 2001

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Order 18 Rule 4

Citation: (2001) 4 RCR(Civil) 399

Hon'ble Judges: Bakhshish Kaur, J

Bench: Single Bench

Advocate: Parveen Kumar, for the Appellant; C.M. Munjal, for the Respondent

Final Decision: Allowed

Judgement

Bakhshish Kaur, J.

This Civil Revision is directed against the impugned order dated 25.8.2000 as the petitioners' prayer for examining the

official witness of Nagar Nigam, Aligarh on commission was declined.

2. One Dina Nath Shukla had died on 10.6. 1960. According to the plaintiff/respondents, he had died at Aligarh and an entry to this effect was

recorded in the register maintained in the Municipal Office, Aligarh and a certified copy of death entry is Annexure P-7, which has been admitted

in evidence.

3. The defendants now petitioners challenged the correctness of this entry. According to him, Dina Nath Shukla had not died at Aligarh, nor this

death entry relates to him. In fact, it is a forged and fictitious entry. To ascertain the correctness of this entry recorded in the register, he wants to

examine the official concerned on commission.

4. The very fact that the original register was not produced at the time when a certified copy of the entry was taken into evidence, therefore, a

party has a right to challenge the correctness of original entry. Since the witness is residing at a distance of 500 km. away from Gurdaspur,

therefore, the party is within its right to get the witness examined on commission as required under Order 18 Rule 4 of the Code of Civil

Procedure. The trial Court was, therefore, in error is not allowing the application filed by the petitioners in this regard.

5. For the reasons recorded above, this revision petition is allowed and the impugned order is set aside. The trial Court is directed to appoint a

commission as required under Order 18 Rule 4 of the Code for the purpose of recording the statement of the official witness of Nagar Nigal,

Aligarh, who is Incharge of the register pertaining to Births and Deaths entries. The trial Court is also directed to tax a date in such a manner that

the commission records the statement of the witness within one month of the appointment, preferably in the month of June, 2001 so that

proceedings in this case are not delayed any more. The expenses of the commission shall be borne by the petitioners/defendants. The parties

through their counsel are directed to appear before the trial Court on 16th May, 2001.

6. Petition allowed