

(1990) 03 P&H CK 0005

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 3480 of 1989

Dera Baba Laturian and Another

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision: March 15, 1990

Acts Referred:

- Evidence Act, 1872 - Section 74, 76

Hon'ble Judges: N.C. Jain, J

Bench: Single Bench

Final Decision: Allowed

Judgement

N.C. Jain, J.

This revision petition is directed against the order of the trial court dated 6.10.1989 by which the attested copies of three documents have been allowed to be produced on the record of the case without requiring the production of their certified copies.

2. During the course of the arguments, the learned Counsel Mr. R.K. Aggarwal has argued that Exhibit D6 could not be allowed to be produced in evidence, until and unless it was certified to be true copy by the concerned department. Photostat copy of the document Exhibit D6 has been attached by the learned Counsel with the revision petition and its perusal shows that it has been attested to be true copy by the General Assistant to the Deputy Commissioner, Patiala. The argument of the learned Counsel for the petitioner is that until and unless it is certified to be true copy in accordance with Section 76 of the Indian Evidence Act, 1872, this document could not be produced into evidence by making a reference to Section 74 of the Evidence Act.

3. After hearing the learned Counsel for the parties and after perusing the relevant provisions of the Evidence Act it transpires that Section 74 of the Evidence Act only deals with public documents. Section 76 of the Evidence Act is actually the Section which deals with the certified copy of such public documents. This section lays down

that every public officer who has got the custody of a public document shall give such a person on demand a copy of such public document who has got a right to inspect and at the foot of such copy he would give a certificate that the copy was true copy of such document. Such copy shall be called in the eyes of law certified copy. On perusal of document Exhibit D6 it has further transpired that the Additional Director of Archives, Punjab, Patiala did certify to be true copy but that certified copy is not forthcoming on the record of the case. On the other hand, a copy of the certified copy has been put into evidence after attestation was put by the General Assistant to the Deputy Commissioner. Surely, the General Assistant to the Deputy Commissioner did not have the original of the document. If he was in possession of the original copy of the document, he could have certified the same to be true copy as is mandatorily required by the provisions of Section 76 of the Evidence Act. In view thereof, it is held that Exhibit D6 could not be received in evidence. The Punjab State may, if it is so advised, obtain a proper certified copy from the concerned department and produce the same before the trial court. However, if no such copy is available, the Punjab State would make an appropriate application before the trial court to make out a case for the receipt of Exhibit D6 as such and then it will be decided by the trial court as to whether this can be received in evidence. In such situation, may be, the Punjab State has to move an application for production of secondary evidence.

4. In the light of the observations above, the revision petition is allowed to the extent indicated above. No costs.