

**HIGH COURT OF TRIPURA
AGARTALA**

CRP No.8 of 2024

Sri Tapash Banik

..... Petitioner(s)

Versus

Sri Nityaranjan Banik

.....Respondent(s).

For Petitioner(s) : Mr. Ratan Datta, Advocate,
Mr. Sourav Debnath, Advocate.

For Respondent(s) : None.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

Order

08/02/2024

Heard Mr. Ratan Datta, learned counsel together with Mr. Sourav Debnath, learned counsel for the petitioner.

[2] The petitioner has instituted T.S. No.09 of 2021 under Section 15(a) of the Specific Relief Act, 1963 for obtaining a decree of specific performance of contract, entered in between the plaintiff and the defendant on 12.03.2019 (registered on 04.04.2019). Petitioner after completion of pleadings filed an application under Order XI Rule 14 of CPC for a direction upon the defendant to furnish the details of his tenant, Sri Sanjib Banik along with the rent receipt and other documents relating to rent, or to pass such other order/orders.

[3] The plaintiff/petitioner herein contended that even after payment of the consideration amount agreed under the agreement for sale, the defendant was denying the receipt of consideration for execution of the sale deed on the ground that the defendant had received the money from the

tenant, Sri Sanjib Banik as rent for the shop and no money was taken from the plaintiff. The said tenant, Sri Sanjib Banik was not a party to the suit. The learned Civil Judge (Sr. Division), Court No.1, South Tripura, Belonia in Civil Misc (Inj.) No.11 of 2023 arising out of T.S No.09 of 2021, upon hearing learned counsel for the parties and after going through the provisions of the Order XI Rule 14 of the CPC which relates to production of documents relating to interrogatories declined the prayer *inter alia* holding as under:

“7. Order XI Rule 14 of Code of Civil Procedure read as follows: “ Production of documents- It shall be lawful for the Court, at any time during the pendency of any suit, to order the production by any party thereto, upon oath of such of the documents in his possession or power, relating to any matter in question in such suit, as the Court shall think right; and the Court may deal with such documents, when produced, in such manner as shall appear just.”

8. On bare reading of Rule 14 of Order XI of Code of Civil Procedure it appears that the Court at any time during the pendency of any suit can order any of the party to produce upon oaths such document in their possession or power relating to any matter in question in such suit. In this case the petitioner sought the defendant to furnish the details of his so-called tenant Sanjib Banik along with house rent receipt and other documents relating to rent. The alleged tenant of the defendant is not a party to the suit. So, asking the defendant to furnish details of his tenant along with rent receipt and other documents relating to rent, will serve no fruitful purpose in deciding the matter of disputes between the parties, instead it will only delay the trial of this suit. As a result, I am not in a position to allow the application of the petitioner.

9. Accordingly, the application of the petitioner filed under Order XI Rule 14 of Code of Civil Procedure is hereby rejected being devoid of merit.

10. The case is disposed of on contest.

11. Make necessary entry in the relevant trial register and also in the CIS.”

[4] Plaintiff being aggrieved has approached this Court under Article 227 of the Constitution of India.

[5] Mr. Ratan Datta, learned counsel for the petitioner has placed reliance upon a decision of the learned single Judge of Delhi High Court in

the case of *Naveen Jindal Vs M/S Zee Media Corporation Ltd. & Anr.*, case No. CS(OS) 143 of 2015 wherein a decision of the Apex Court in the case of *M. L. Sethi vs R.P. Kapur* reported in *AIR 1972 SC 2379* has been cited. He submitted that the approach of the learned trial Court is erroneous since the documents such as rent receipt etc. of his tenant, Sri Sanjib Banik lie within the power and possession of the defendant and they are relevant for adjudication of the main lis in the title suit. The discovery of those documents cannot be objected on the ground that it is scandalous or actuated by mala fide or on the ground of privilege. Therefore, the impugned order may be set aside.

[6] I have considered the submissions of the learned counsel for the plaintiff/petitioner. Order XI relates to discovery and inspection through interrogatories both of answers to interrogatories in the form of an affidavit and production of documents. The purpose or object behind these provisions is to shorten the litigation at the initial stage before the trial and the latter rules of evidence are meant to discover the truth at the stage of trial or giving evidence. As held by the Apex Court in the case of *M. L. Sethi* (supra) also relied upon in the case of *Naveen Jindal* (supra) cited on behalf of the petitioner, discovery of facts or discovery of documents can be allowed only with the leave of the Court. Similarly, discovery by means of interrogatories can be objected on the ground that it is scandalous, irrelevant, mala fide and on the ground of privilege. Discovery of documents can be objected on the ground of legal or professional privilege; that they may tend to criminate a party or expose him to forfeiture; that they are protected by public policy; that they are not in the sole possession of the party; that they solely relate to

the case of the party; that they are in the possession of the party as an agent or a representative of another; and that they disclose evidence of party's own case. The case of the present petitioner is distinguishable on facts from that of *Naveen Jindal* (supra) as on a bare reading of the decision of the Delhi High Court it is apparent that the plaintiff Naveen Jindal had sought production of documents from the respondent-Zee Media Corporation which are (i) news programme dated 13.01.2015 telecast by defendant No.1; (ii) the article dated 09.01.2015 published by the defendant No.2 which were alleged to be vindictive and malicious as against the plaintiff. The learned single judge referred to the provisions of the Order XI Rule 14 and observed that the documents are within the power and possession of the defendant and are relevant to the matter in controversy. Therefore, it should be summoned from the defendants. In the present case, the documents of rent receipt between the defendant owner and his tenant, who is not a party to the suit, cannot be said to be such document which solely relates to the case of the plaintiff. As observed in the case of *M. L. Sethi* (supra) production of such a document can be objected by the other party if they disclose evidence of party's own case. Plaintiff in the instant case appears to seek production of these documents which relate to a person who is not a party to the suit, as a means to create evidence in his support which he is supposed to be proved during trial on the issue in controversy. The learned Trial Court has properly appreciated the object and purpose of interrogatories under Order XI and rightly refused to allow the prayer for production of such a document by the defendant in favour of the plaintiff.

[7] This Court, therefore, does not find any error on the part of the learned Trial Court to be interfered in exercise of the supervisory jurisdiction of this Court under Article 227 of the Constitution of India. The instant petition is, accordingly, dismissed. Pending application(s), if any, also stands disposed of.

(APARESH KUMAR SINGH), CJ

