

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CR No.1673 of 2013.

Decided on:-February 06, 2015.

Inder Krishan Mehta.

.....Petitioner.

Versus

Kewal Krishan Mehta.

.....Respondent.

CORAM: HON'BLE MR. JUSTICE DR. BHARAT BHUSHAN PARSOON.

Argued by:- Mr. Amit Sethi, Advocate for the petitioner.

Ms. Monita Mehta, Advocate for the respondent.

Dr. Bharat Bhushan Parsoon, J.

Order dated 6.2.2013 vide which application of the defendant, petitioner herein under Order XI Rule 1 read with Section 151 CPC for discovery by interrogatories for examination and production of documents was dismissed, is under challenge in this revision petition.

2. This litigation between two advocate brothers is regarding interpretation of family settlement dated 28.2.2001. Whereas the plaintiff, petitioner herein, claims ½ share of the property in dispute, the defendant, respondent herein, claims that the said settlement never intended to partition the property. The suit is pending adjudication since 23.11.2011. The trial court had found that application for discovery by interrogatories, was not required as only the interpretation of the document which is in the nature of a family settlement dated 28.2.2001, was involved.

3. In this revision petition, claim of the petitioner-plaintiff is that the defendant/respondent herein is dilly-dallying the matter and is not acting

upon the family settlement. It is claimed that discovery by interrogatories would have resulted in shortening the litigational field between the parties.

4. Counsel for the respondent-defendant, on the other hand, has urged that by serving the interrogatories, a fishing expedition has been ventured by the petitioner-plaintiff. In short, it is claimed that neither the interrogatories are relevant nor in any way help the parties or the Court in effective and competent adjudication of the matter in controversy.

5. Perusal of the paper book as also co-joint reading of application for interrogatories, reply thereto and re-joinder to such reply, reveals that the interrogatories completely overflow and do not have their harbouring in the pleadings of the parties. In fact, application for discovery by interrogatories is a ploy to create complexities and confusion to blur the real controversy between the parties requiring adjudication. Instead of filing of replication with the leave of the Court, the plaintiff had ventured to file application for discovery by interrogatories, in a bid to derail the solution to the rival claims which concedingly is simply dependent upon interpretation of the family settlement, execution of which is not disputed.

6. Plea of the petitioner-plaintiff that interrogatories are to serve the purpose of cutting short the litigation and for implementation of the family settlement between the parties, is not correct. There is only one document i.e. family settlement which is the foundation of the entire litigation and solution thereof. Reading of interrogatories goes to reveal that it is not a genuine and bonafide attempt for discovery of any further documents in a bid to resolve the matter but, in fact, these interrogatories are questions which the plaintiff would be at liberty to put to the defendant as also to his witnesses at the time of cross-examination. In fact, no documents are sought to be discovered, no details have been specified and the entire matter has been tried to be complicated adding more complexities to it. The

object of interrogatories is to shorten sphere of controversy as was held in ***Inderjit Versus Madan Gopal and others 1975 Rent Control Reporter 100 (P&H)***. Interrogatories are those which are relating to “any matters in question”. It was so held in ***Raj Narain Versus Smt. Indira Nehru Gandhi and another AIR 1972 Supreme Court 1302***. If the interrogatories are genuine and bonafide, a sincere attempt to discover documents relevant for matter in controversy would be there for the purpose of resolving the dispute. Reference in this regard may be made to ***Shri M.L. Sethi Versus Shri R.P. Kapur AIR 1972 Supreme Court 2379***.

7. In the present case, effort is to escalate the dispute rather than to make an attempt to genuinely resolve the same. Learned lower court was right in dismissing the application by making the following observations in the impugned order dated 6.2.2013 (Annexure P-6):

“Since the matter pertains to the interpretation of the document, I am of the opinion that the same cannot be decided by way of interrogatories and is matter of evidence. Accordingly, application is hereby dismissed.”

8. The application for discovery by interrogatories is a malafide exercise and is nothing but an abuse of process of the Court.

9. Sequelly, no ground to interfere with the impugned order is made out; affirming the same, this petition, being devoid of any merit, is dismissed.

(Dr. Bharat Bhushan Parsoon)
Judge

February 06, 2015
‘Yag Dutt’

1. Whether Reporters of local papers may be allowed to see the judgment? Yes
2. Whether to be referred to the Reporters or not? Yes
3. Whether the judgment should be reported in the Digest? Yes