

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

C.R.No.3868 of 2015 (O&M)

Date of Decision: December 18, 2015

**Union of India, through Secretary, Ministry of Defence of India, New Delhi
& others**

...Petitioners

Versus

M/s Kanhiya Dhaliwal Developers, Bathinda & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

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

Present: Mr.G.C.Shahpuri, Advocate for
Mr.Namit Kumar, Advocate,
for the petitioners.

Mr.Rajan Bansal, Advocate,
for respondent Nos.1 to 6.

Mr.Piyush Bansal, DAG, Punjab,
for respondent Nos.7 to 9.

AMIT RAWAL, J.(Oral)

Petitioner-defendants-Union of India are aggrieved of the order dated 28.4.2015 (Annexure P-5), whereby the application filed by respondent-plaintiff No.1 for discovery of documents and issuance of direction to produce the same, has been allowed.

Mr.G.C.Shahpuri, Advocate for Mr.Namit Kumar, learned counsel appearing on behalf of the petitioner-defendants submits that no reason, much less cogent reasons has been assigned as to how and under what circumstances, the documents are essential and necessary to be proved on record, particularly in a suit for permanent injunction. He further submits

that the stage of the suit was for consideration of the application under Order 39 Rule 1 & 2 CPC. Even the respondent-plaintiffs had not filed replication, but chosen to move the application which has been erroneously allowed. The detailed written statement was filed containing all the documents, which were enclosed, therefore, there was no necessity for placing on record the documents, thus, the application was premature. At the best, the application could have been moved after the pleadings were complete, in essence the issues were framed. In support of his contention, relies upon the judgments rendered in **Ms.Monica Bibli Sood Versus Dr.Karan J.Kumar and others**, 2005(2) R.C.R.(Civil) 455 and **The Tata Iron and Steel Co.Ltd. and others Versus Prop.Ajit Cotton Ginning Pressing Dall & Steel Rolling Mills**, 2013(1) R.C.R.(Civil) 506.

Mr.Rajan Bansal Advocate and Mr.Piyush Bansal, DAG, Punjab, appearing on behalf of the respondents submits that no prejudice would be caused to the petitioner-defendants in case the documents are produced before the Court, as it would help the Court in adjudication of the lis between the parties.

I have heard the learned counsel for the parties and appraised the paper book.

Production of the documents would entail into shorting of the litigation. There is no dispute to the ratio decidendi culled out in the aforementioned judgments as it has been laid down after taking into consideration the facts. However, in the instant case, on going through the reply filed by the petitioner-defendants to the application seeking production of the documents, there is no specific denial with regard to the availability of the documents, much less its nature and reasons. For the sake

of brevity, paragraph 4 of the reply reads thus:-

“4. That the contents of para No.4 as explained are not correct and hence denied. Respondent No.3 vide his letter No.5648/sk/nsk3 dated 02 Dec 2014 had written to the respondent no.8 intimating him that in the absence of permanent land marks survey of land on the road Bathinda-Barnala-Bibiwala cannot be carried out. If that be the case, it is understood that as to how the land and the restrictions were only on not being allowed to use or sell the said land for residential or commercial purpose. Further, it would be worthwhile to note that the applicants got the Jamabandi for the said land done in 2007-2008, entered into a partnership on 08/10/2010 as M/s Kanhiya Dhaliwal Developers with their office as SCF-7, Green City Colony, Green Palace Road, Bathinda-151001 and they allegedly obtained the license for Green City Part 1 and 2 from Punjab Urban Development Authority (PUDA) on 29 May 2012 vide license No.LDC 2012/10 without informing the factual position to PUDA. Suffice it to say that since they were not the owners of the said land, when the notification was done and when the Award as made and the compensation paid to affected party. However, what the applicant/plaintiffs have perhaps missed out is the fact that in his Award of compensation made by the Collector, district Bhatinda dated 10 March 1995, the Collector has categorically mentioned that “Firstly” ban was imposed under section 7(b) of the Act on any type of construction within 100 meters towards North-west of Place/land adjacent to 11 FOD situated at Bathinda” and “Secondly, the land owners from serial No.2 to 4 (i.e. Smt.Parsin Kaur etc r/o Bathinda, Sh.Jalour Singh s/o Kartar Singh and Shri Som Chand s/o Diwan Chand r/o Bathinda can Respondent No.3 could have prepared the sketch of the said land or how the applicants are claiming survey of the authentication of the land as claimed by them. Suffices it is to say that in such a scenario, the khasra numbers spelt out in the notification loose their relevance and

as such the fact that an area of 100 meters to the North and West of 11 FOD needs to be considered and put under restrictions.”

Keeping in view the aforementioned facts, once the petitioner-defendants had not denied the availability of the documents, I am of the view that in case the documents are produced, it will shorten the litigation, much less, help the Court in adjudicating the lis between the parties, in essence, the parties would not be required to prove the documents, which are admitted. The object and the purpose of the Civil Procedure Code is to follow the aforementioned procedure in order to shorten the litigation, which is being sought to be achieved in the order under challenge.

I do not intend to interfere with the impugned order. There is no merit in the revision petition. The same is accordingly dismissed.

December 18, 2015
ramesh

(AMIT RAWAL)
JUDGE