

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No. 465 of 2014

Date of decision: 24.04.2015

M/s. Vidya Sons

....Petitioner

V/s.

M/s. Gurdas Cycle Industries

....Respondent

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI.

Present: Mr. B.S.Guliani, Advocate for the petitioner.

None for the respondent.

M.M.S. BEDI, J. (Oral)

This is the revision petition filed by the defendant aggrieved by an order dated 05.12.2013 (Annexure P-1) allowing the application of the plaintiff/respondent under Section 151 CPC, granting permission to produce documents pursuant to an application dated 12.03.2012 (Annexure P-4).

A perusal of the application (Annexure P-4) submitted by the plaintiff/respondent indicates that the plaintiff had sought production of the following documents: -

- a. Invoices qua goods supplied to the defendant firm by the plaintiff firm, Annexure P1 to P21.
- b. Balance sheet, as on 31.03.2006, Annexure P22.
- c. Balance sheet, as on 31.03.2007 Annexure P23.

Learned counsel for the defendant/petitioner has vehemently contended that when this application was filed, the evidence of the plaintiff had already been concluded in affirmative.

With the assistance of counsel for the defendant/petitioner, I have gone through the stand of defendant in the written statement wherein he has claimed that no payment is due from the defendant and that the statement of account produced by the plaintiff was a fabricated document. It has also been

mentioned in the written statement that the plaintiff is relying upon some bills but he has failed to produce on record the details of the same and copy of the said bills.

Notice in this revision had been issued to the respondent. After notices were received unserved with the report that no such firm was existing, notice was issued to its counsel. Now report has been received that counsel has been changed. I am satisfied that the plaintiff/respondent is evading service. As such it is proceeded against exparte and the revision petition has been taken up for consideration for final disposal.

The claim of the plaintiff/respondent for recovery appears to be based upon the invoices, bills and account books. He seems to have not appended these documents as per requirement of law. It is apparent that the plaintiff has not produced the documents sought to be produced by filing an application under Section 151 CPC, by examining himself as the proprietor of plaintiff firm. As per provisions of Order 18 Rule 4 CPC when some documents are filed and parties rely upon documents, the proof and admissibility of such documents which are filed along with affidavits under Order 18 Rule 4 CPC shall be subject to the order of the Court. In the present case, the documents seem to have not been produced at the time of making statement. It is not appropriate for this Court at this stage, to determine the authenticity, relevancy and admissibility of the documents sought to be produced/proved but since the defendant/petitioner has not yet been cross-examined, the respondent/plaintiff while cross-examining the defendant/petitioner, can always confront him with any document while testing the credibility of the witness.

This petition is disposed of with a direction that the documents which have been permitted to be produced by the trial Court will not be taken in evidence by exhibiting the same unless and until these are admitted in cross examination or

their authenticity, admissibility, relevancy and mode of proof is established to the satisfaction of the trial Court. The mere production of documents as ordered by learned trial Court will not *ipso facto* make the documents part of the evidence. Sometimes documents are admitted as per provisions of the Indian Evidence Act or the Code of Civil Procedure. In any such situation, it is open to the trial Court to read the documents as evidence.

This order will however not prejudice the rights of the plaintiff/respondent to prove the documents in question in accordance with law.

(M.M.S.BEDI)
JUDGE

April 24, 2015
Divyanshi