

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

CR No.8465 of 2015.

Date of Decision: 11.12.2015.

Jarnail Kaur and another

....Petitioners.

VERSUS

Suresh Kumar and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Hitesh Verma, Advocate for the petitioners.

SNEH PRASHAR, J.

This petition under Article 227 of Constitution of India was filed by the petitioners to set aside the order dated 12.08.2015 passed by learned Civil Judge (Junior Division), Bathinda, vide which the application under Order XI of the Code of Civil Procedure (for short, "the Code") filed by the petitioners seeking direction to respondents No.1 and 2 to produce the documents, was dismissed.

As it emerges from the record, a suit for recovery of Rs.9,24,000/- alongwith interest on the basis of a pronote and a receipt dated 25.06.2009, was filed by plaintiffs-respondents No.1 and 2 against the petitioners and defendants-respondents No.3 to 6. During the course of trial,

the petitioners filed an application seeking direction to respondents No.1 and 2 to produce all original pronotes on the basis of which they had lent money to any person during the period 01.04.2009 till date. Copies of plaints of all the cases filed by the plaintiffs against any/all the persons for recovery of any amount, alongwith original/copy of money lender's licence were also sought to be produced.

The plaintiffs in their reply submitted that they had lent money to two other persons against execution of pronotes. The suits for recovery filed against them have already been decreed and that they have no money lending licence. All other averments of the applicants-petitioners were denied.

Learned trial Court vide order dated 12.08.2015 dismissed the application of the petitioners on the ground that a party cannot be forced to produce evidence against himself.

Aggrieved by the order, the instant revision petition has been filed.

The submissions of learned counsel representing the petitioners have been considered.

Learned counsel for the petitioners referring to Order XI Rule 12 of the Code argued that during the trial of a case a party can apply to the Court for a direction to the other party to the suit to make discovery on oath of the documents which are or have been in his possession or power relating to any matter in question therein. Learned counsel contended that in their reply respondents No.1 and 2 admitted having lent money to two other

persons against execution of pronotes. They also admitted that two other civil suits against the loanees were filed which have been decreed in their favour. In view of their admission, they were under obligation to produce the pronotes to which they referred and the copies of the complaints of the suits filed by them as the said documents were necessary for proper and complete adjudication of the case.

Firstly, learned counsel for the petitioners has failed to explain how the documents being sought to be produced by the petitioners were necessary for proper adjudication of the case in hand. Secondly, the information sought by the petitioners in their application was answered by the respondents in clear words. As per their reply, they had filed suits for recovery on the basis of the other two pronotes against which they had lent money, which means that the pronotes were on the record of the suits instituted by them and were not in their possession. Since the documents are part of judicial record, it is for the petitioners to summon the same and get them proved if at all they are necessary for deciding the matter in controversy between the parties. They cannot force the respondents to produce/ prove those documents. Learned trial Court had rightly dismissed the application of the petitioners.

Thus, finding no illegality or perversity in the order of learned trial Court calling for intervention, the petition is dismissed.

(SNEH PRASHAR)
JUDGE

11.12.2015.
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