IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No.7027 of 2015(O&M)

Date of decision:11.5.2016

Shri Markandeshwar Finance Company Ltd. ….Petitioner

VERSUS

Rajesh .....Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

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

Present: Mr. Ankit Aggarwal, Advocate for the petitioner.

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REKHA MITTAL, J.

The present petition has been directed against order dated 20.08.2015 (Annexure P-7) whereby application filed by the respondent/plaintiff under Order 8 Rule 1-A of the Code of Civil Procedure, 1908 (in short 'CPC') has been allowed.

Rajesh son of Ami Lal (respondent) has filed a suit for mandatory injunction with consequential relief of permanent injunction against the petitioner/defendant. In the written statement, the petitioner/defendant raised a plea in para 3 that parties to the suit came to final settlement of accounts and in that order the plaintiff issued a cheque No.592511 dated 22.09.2014 of Rs.2,96,000/- due against vehicle No.HR-55-6614, cheque No.639028 post-dated 18.11.2014 for a sum of Rs.3,72,000/- for loan taken against vehicle No.HR-67-A-2231 and another cheque No.639029 post-dated 15.12.2014 for a sum of

Rs.2,55,000/- for vehicle No.HR-63-B-5027, handed over by the plaintiff to the defendant on 22.09.2014.

The respondent/plaintiff filed an application under Order 8 Rule 1-A CPC for issuance of direction to the defendant to deliver the documents to the plaintiff namely the final settlement of accounts and receipt of payment received by defendant from the plaintiff as well as copy of agreement.

In response thereto, the petitioner filed reply stating that on 20.09.2014 at the time when the parties reached settlement, all the accounts of all vehicles for which plaintiff has taken loan were supplied to him and that is why he has issued the cheques detailed in the written statement. It has further been averred that the plaintiff has not attached even a single document with the plaint to prove his case, for which the answering defendant is filing a separate application directing the plaintiff to supply all the documents on which the plaintiff relies upon.

After having heard counsel for the parties, the learned trial Court allowed the application of the plaintiff with a direction to the defendant/petitioner to supply copies of documents i.e. loan agreement, settlement of accounts and receipt, if any. On the contrary, application filed by the petitioner/defendant for production of documents was dismissed.

Counsel for the petitioner has assailed the impugned order qua supply of documents namely loan agreement, settlement of accounts and receipt if any. It has been argued that in view of reply to the application, it has been averred by the petitioner that all the accounts of vehicles for which the plaintiff has taken loan were supplied to the plaintiff, therefore, the respondent cannot ask for the documents.

Perusal of para 2 of the reply (Annexure P-4) makes it evident that the same is totally vague and the petitioner cannot take advantage thereof to deny claim of the respondent/plaintiff for supply of copies of documents. Nothing has been stated in the reply that the settlement of accounts is not available with the petitioner for supplying a copy thereof to the respondent/plaintiff. Even in the present petition, no affidavit has been filed by a duly authorized representative of the petitioner that the finance company is not in possession of the documents of which the copies have been ordered to be provided to the respondent/plaintiff. That being so, I find myself unable to accept plea of the petitioner that the impugned order suffers from any error much less illegality warranting intervention.

For the forgoing reasons, the petition fails and is accordingly dismissed.

MAY 11, 2016 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**