

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

-.-

Civil Revision 7019 of 2016 (O&M)
Date of decision: 20.10.2016

Surjit Kaur and another

..... Petitioners

Versus

State of Haryana and others

..... Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. Sukhwinder Singh Chatrath, Advocate
for the petitioners

-.-

Rekha Mittal, J.

The present petition directs challenge against order dated 12.09.2016 (Annexure P3) passed by the Civil Judge (Senior Division) Ambala whereby application filed by the petitioners under Order XI Rules 12, 14 and 15 read with Section 151 of the Code of Civil Procedure (in short, CPC) seeking production of documents, has been dismissed.

Counsel for the petitioners has submitted that Surjit Kaur and Amandeep Kaur, successors-in-interest of Bakshish Singh filed a suit for declaration claiming that they are absolute owners in possession of plot-cum-built up house bearing No. 111-A, measuring 1200 square yards, situated at Village Mandhour, Tehsil and District Ambala. They have prayed for setting aside cancellation of allotment of the said plot being null and void, illegal and not binding upon the petitioners. The respondents

filed the written statement and, in turn, raised objection qua maintainability of the suit with the averments that allotment of plot in question was cancelled after vigilance inquiry conducted in the year 1987.

The petitioners filed the instant application (Annexure P1) for discovery and production of documents, detailed in para 4 of the application. It is argued that the learned trial Court dismissed the application primarily by relying upon judgment ***Municipal Corporation Faridabad and another v. Dharambir and others, 2014 (1) CCC 702 (P&H)*** wherein it has been held that the provisions of Order XI rule 14 CPC for production of documents by opposite party are available only before framing of issues. It is vehemently argued that the judgment in *Municipal Corporation, Faridabad's* case (supra) is contrary to the provisions of Order XI Rule 14 CPC that provides for production of documents at any time during pendency of suit relating to any matter in question in such suit, as the Court shall think right. It is further argued that the Court can deny the application only with regard to privileged documents under the Indian Evidence Act, 1872. In support of his contention, he has referred to judgment of this Court ***Sharvan Kumar v. Sumeet Kumar Garg, 2002 (3) PLR 666.***

I have heard counsel for the petitioners and perused the paper book particularly the order impugned.

Order XI CPC deals with discovery and inspection and Rule 14 thereof provides for production of documents. A relevant extract from Rule 14 of Order XI CPC reads as follows:-

*“14. Production of documents— It shall be lawful
for the Court, at any time during the pendency of*

any suit, to order the production by any party thereto, upon oath of such of the documents in his possession or power, relating to any matter in question in such suit, as the Court shall think right; and the Court may deal with such documents, when produced, in such manner as shall appear just.”

A reading of the aforesaid extract substantiates contention of the petitioners that the Court is empowered to order production of by any party to the suit upon oath of such of the documents which are in his possession or power relating to any matter in question in such suit as the Court shall think right and the Court may deal with such documents in such manner as shall appear just.

In the case at hand, issues have already been framed and the petitioners after availing certain opportunities to adduce evidence filed the instant application for production of documents. Counsel for the petitioners has not disputed that the documents sought to be produced by filing the present application can also be summoned through process of the Court by summoning a witness of the concerned department. In view of the fact that the case is already pending for recording evidence of the petitioners and the petitioners are entitled to summon an official witness along with relevant documents, I do not find any reason to interfere in the discretion exercised by the trial Court even though the judgment in *Municipal Corporation, Faridabad's* case (supra) does not appear to be a correct interpretation of the provisions of Order XI Rule 14 CPC.

For the foregoing reasons, the petition stands disposed of without prejudice to rights of the petitioners to adduce relevant evidence, in accordance with law.

(Rekha Mittal)
Judge

20.10.2016
mohan bimbra

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No