

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

CR No.804 of 2016
Date of decision : 04.02.2016

M/s Hari Om Industries

...Petitioner

Versus

Market Committee, Moga and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

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. S.K. Singla, Advocate for the petitioner.

AMIT RAWAL, J. (Oral)

The petitioner-plaintiff is aggrieved of the order, whereby application Annexure P-4 moved under Section 151 CPC seeking indulgence of the trial Court to submit the affidavit in pursuance to the direction given by this Court in the order dated 24.07.2015 passed in CR No.1273 of 2014, has been declined.

Mr. S.K. Singla, learned counsel appearing on behalf of petitioner submits that in pursuance to the order of this Court *ibid*, the trial Court vide order dated 19.10.2015 permitted the plaintiff to exhibit the original notice as Ex.P-34, and its receipts Ex.P-35 and Ex.P-36 and demand notice as Ex.P-37 but did not permit the plaintiff to submit the

affidavit to prove the aforementioned documents. In this regard, application aforementioned was filed.

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

The order of this Court in CR No.1273 of 2014 reads thus:-

“Petitioner has filed this petition under Article 227 of Constitution of India challenging the order dated 17.2.2014 (Annexure P-3).

Learned counsel for the petitioner has submitted that demand notice dated 1.9.2006 issued by defendant No. 1 was challenged in the suit filed by the petitioner. Petitioner had filed his reply to the said notice. The issuance of demand notice in question and reply to the said notice furnished by the petitioner, were admitted by the defendants in their written statement. Hence, the said documents were liable to be exhibited on record. Photocopies of the said documents are already on record.

Learned counsel for the respondents on the other hand, has submitted that issuance of demand notice dated 1.9.2006 by defendant No. 1 and reply submitted to the said demand notice by the petitioner, was not in dispute. Hence, the respondents had no objection if the said documents were ordered to be exhibited.

Accordingly, this petition is disposed of with a direction to the Trial Court that the photocopies of the demand notice dated 1.9.2006 issued by defendant No. 1 to the petitioner and the reply submitted by the petitioner to the said notice be exhibited.”

And as well as of the trial Court dated 19.10.2015 reads thus:-

“Counsel for the plaintiff vide his separate statement suffered in the court tendered original notice as Ex.P34

and its receipts Ex.P35 and Ex.P36 and demand notice Ex.P37. As requested, case stands adjourned to 17.11.2015 for addressing arguments.”

While tendering original documents, there is no objection to the aforementioned documents vis-a-vis its proof or otherwise. The plaintiff cannot seek liberty of the Court to submit his evidence in rebuttal in absence of any rebuttal issue. In case, application in hand is allowed, it will be perpetuate illegality, which is not permissible in law.

Keeping in view the aforementioned facts, I am of the view that application of the plaintiff was not maintainable and rightly so, has been dismissed.

Order cannot be said to have been passed without jurisdiction.

Revision petition is dismissed.

04.02.2016

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**(AMIT RAWAL)
JUDGE**