

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

-.-

CR 8168 of 2016

Date of decision: 05.12.2016

*M/s Mahindra and Mahindra Limited*

*..... Petitioner*

*Versus*

*M/s Goyal and sons and others*

*.....Respondents*

**Coram: Hon'ble Mrs. Justice Rekha Mittal**

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Present: Mr. Jasdev Singh Mehndiratta, Advocate  
for the petitioner

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**Rekha Mittal, J.** (Oral)

The present petition directs challenge against order dated 02.11.2016 passed by the Additional Civil Judge (Senior Division) SAS Nagar, Mohali whereby application of the petitioner/plaintiff seeking directions to the defendants/respondents to supply complete statement of account has been dismissed with the following observations:-

*“.....Now in the present suit, defendant is giving his evidence and further defendant himself stepped into the witness box for the purpose of cross examination and further defendant in his cross examination has specifically stated that he has already placed the document on the file which was available with him and he further stated that he has no other document except the document already produced. Since it is settled law that plaintiff is bound to prove his own case and further there is no procedure to compel the other party to produce any specific document and further in such*

*circumstances when the document i.e. account statement demanded by the plaintiff is a public document and further plaintiff has all option to obtain a certified copy from the concerned office, but plaintiff instead of obtaining the certified copy from the concerned department, has filed the present application, which otherwise is not maintainable and further the fact that account statement was within the knowledge of the plaintiff at the time of adducing the affirmative evidence and further it was the duty of the plaintiff to prove the said document in his affirmative evidence.....”*

Counsel for the petitioner has submitted that statement of account of a private concern can never be a public document more particularly in the circumstances that the same has not been filed with any authority, therefore, there was no occasion for the petitioner to obtain certified copy to prove the same. It is further submitted that the observations recorded by the trial Court are likely to cause prejudice to the petitioner at the time of the final disposal of the suit, thus, the same are liable to be set aside.

I have heard counsel for the petitioner, perused the paper book particularly statement of account Annexure P2/exhibit DW1/X and the impugned order.

Perusal of Annexure P2 *prima facie* indicates that it is a statement of account prepared by the respondent firm, therefore, the trial Court appears to have taken erroneous view that the same is a public document and the petitioner/plaintiff could obtain a certified copy or was required to prove it in affirmative evidence. This apart, as per the settled

position in law, the Court should refrain from commenting upon merits of the case while disposing of an interlocutory application. In this view of the matter, the instant petition stands disposed of with the observations that any opinion expressed by the trial Court while disposing of the application shall not cause prejudice to the petitioner at the time of final disposal of the suit. On the contrary, if the respondents have failed to produce any documentary evidence in their possession which can throw light on the issue in controversy, the petitioner would be at liberty to make submissions qua that aspect of the matter at an appropriate stage of the proceedings.

(Rekha Mittal)  
Judge

05.12.2016  
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Whether speaking/reasoned: Yes/No  
Whether reportable : Yes/No