

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.3368 of 2017(O&M)
Date of Order: 29.08.2017

Surinder Pal

..Petitioner

Versus

Raj Singh and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Harsh Bunker, Advocate,
Ms. Priyanka Dalal, Advocate, and
Mr. Ritesh Parshad, Advocate,
for the petitioner.

ANIL KSHETARPAL, J.

Plaintiff is in revision petition against the order passed by learned Civil Judge (Sr. Division), Gurugram, dated 21.04.2017, partly dismissing the application filed by the plaintiff under Section 151 CPC for issuing directions to the defendants to produce original documents, detailed and described in paragraph 2(a) to (e) of the application.

Plaintiff had filed a suit under Section 6 of the Specific Relief Act, 1963 for restoration of possession of Flat No.B-1/201, Ambiance Island, NH-8, Gurgaon, on the ground that he has been dispossessed illegally and forcibly. The suit was filed on 20.07.2016.

Plaintiff concluded his evidence and thereafter the case was fixed for evidence of the defendants. During the cross-examination of defendant-Raj Singh, plaintiff filed an application for issuance of directions to the defendants to produce following documents on the next date:-

“a) Allotment files including original buyer

agreements and applications for allotment of residential flats/ residential apartments No.B1-001, B1-101, B1-301, B1-401, B1-501, B1-601, B1-201 and B1-701 in Lagoon Residential Apartment Complex, Gurgaon.

- b) Energy Bill No.3165 dated 17.01.2006 in the name of the plaintiff with the date of payment as 31.01.2006 and energy bills and bill book for other flats for the period June 2005 to March, 2006.*
- c) Whether sale deeds of all the above flats have been executed? If so, records of the said sale deeds.*
- d) Account books of the company for the year 2005.*
- e) Record of the security incharge maintained by the security at the gate wherein entry of visitors is made and record of the security incharge who maintained the security of this particular Block B1 in which the Flat No.B1-201 is situated for the period from 01.06.2005 to 31.01.2006.”*

Defendants contested the application and after hearing arguments, the learned Court allowed documents under paragraph 2(a) of the application except original buyers agreement and application for allotment of residential flat/residential apartment No.B1/201, as the defendants had taken a stand that the original buyers agreement or application for allotment is not in their possession. Similarly, with regard to documents mentioned in paragraph 2(b) and (e), the Court has held that no

direction can be issued as the defendants claim that these documents are not in their power and possession. Similarly, with regard to document referred in paragraph 2(c), the Court has held that no direction can be issued. Similarly the prayer for issuance of direction of account books of the company under paragraph 2(d) has also been rejected.

Learned counsel for the petitioner has submitted that these documents are necessary for proper cross examination of the defendants. He has further submitted that under Order 11 Rule 14 CPC, the Court at any time during the pendency of the suit can issue directions to the party to produce documents. Order XI Rule 14 CPC is extracted as under:-

“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 Order 11 Rule 14 would show that the Court can issue direction to the party only in respect of documents, which are in the possession or power of the party and only such documents can be directed to be produced which the Court think that such documents are relevant for the decision of the case.

In the present case, the trial Court after examining the documents, have found that some of the documents are not in possession of the defendants as per their stand and some documents are not required.

As far as documents, which are not in power and possession of the defendants, no direction can be issued by the Court under Order 11 Rule 14 CPC for production. As regards the remaining documents, the Court has held that such documents are not relevant.

Learned counsel for the petitioner has failed to address any meaningful argument to show that such document are relevant for the decision of the case.

Even otherwise, the case is at the stage of defendant's evidence. Plaintiff has already led his evidence. In the present case, the only issue which needs consideration is whether plaintiff has been forcibly dispossessed or not? The suit is pending for the last 11 years.

In view of the above, I do not find any good ground to interfere with the impugned order passed by the learned Civil Judge (Sr. Divn.) Gurugram, dated 21.04.2017. The civil revision is ordered to be dismissed.

August 29, 2017
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No