

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CWP No. 455 of 2013 (O&M)
Date of decision : July 25, 2017

Rahul Sheoran

..... **Petitioner**

Versus

The Collector-cum-Sub Divisional Officer (Civil) Karnal and another
..... **Respondents**

CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present:- Mr. Ashish Aggarwal, Senior Advocate with
Mr. Vijay Kumar Kajla, Advocate
for the petitioner.

Ms. Tanisha Peshawaria, DAG., Haryana for
respondent No.1.

Mr. P. K. Mutneja, Advocate
for respondent No.2.

RAKESH KUMAR JAIN, J (oral).

This petition is filed in order to assail the validity of the order dated 29.11.2012 passed by the Collector-cum-Sub Divisional Officer, Karnal, dismissing the application filed by the petitioner by which he had asked for discovery of documents in terms of Section 8 of the Haryana Public Premises (Eviction and Rent Recovery) Act, 1972 (hereinafter referred to as the 'Act').

Shorn of unnecessary details, the petitioner, working as an Assistant Security Officer, was prosecuted in terms of Section 7 of the Act on the ground that he is in un-authorized possession of H.No. A-4 in the Mills Campus.

During the course of hearing, the petitioner made an application under Section 8 of the Act seeking discovery and production of certain documents. The Collector, vide impugned order, dismissed the application, relegating the petitioner to seek his remedy under the Right to

Information Act, 2005 (hereinafter referred to as 'the Act of 2005').

Counsel for the petitioner has argued that Section 8 of the Act empowers the Collector with the powers vested with the Civil court under the Code of Civil Procedure, 1908 (hereinafter referred to as 'CPC') in respect of “requiring the discovery and production of documents.”

Section 8 of the Act is reproduced as under:-

“The Collector shall, for the purpose of holding any enquiry under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, when trying a suit, in respect of the following matters, namely: —
(a) summoning and enforcing the attendance of any person and examining him on oath;
(b) requiring the discovery and production of documents;
(c) any other matter which may be prescribed.”

It is submitted that once the power has been given to the Collector of discovery and production which he derived from Order 11 of the CPC, then the petitioner cannot be relegated to the remedy of seeking information which was otherwise also not given even on the application of the petitioner.

On the other hand, learned counsel appearing on behalf of the respondents has submitted that the demand raised by the petitioner of the documents is ambiguous and, therefore, the Collector has rightly relegated him to the remedy of seeking information under the Act of 2005.

I have heard learned counsel for the parties and perused the record with their able assistance.

The proceedings initiated against the petitioner under the Act is for seeking the eviction in a summary manner. The Collector has been given powers, confined to summoning and enforcing the attendance of

any person and examining him on oath, requiring the discovery and production of documents and any other matter which may be prescribed. The petitioner has thus, invoked the powers of the Collector, by moving an application, requiring discovery and production of certain documents, which has been declined by relegating the petitioner to seek the remedy under a different statute.

To my mind, the order of the Collector is totally illegal because the Collector has though proceeded in a summary manner to act as civil court under CPC but it cannot deny the prayer on the ground that the petitioner would seek the remedy under the Act of 2005.

With these observations the order of the Collector is set aside and the matter is remanded back to him to exercise his power under Section 8 of the Act in accordance with law.

Parties are directed to appear before the Collector on 3.8.2017.

It is further directed that the Collector shall make all endeavours to decide the application of the respondent-Mill as early as possible preferably within a period of three months.

The writ petition is disposed of.

(RAKESH KUMAR JAIN)
JUDGE

July 25, 2017

archana

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No