IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Revision No.1600 of 2018 (O&M)
Decided on:-March 28, 2018.

Chander Mohan.

……Petitioner.

Versus

Anil Singhania and others

……Respondents.

CORAM: ***HON'BLE MR. JUSTICE HARI PAL VERMA.***

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Present:- Mr. Vikas Bali, Advocate
for the petitioner.

HARI PAL VERMA, J.

The petitioner-plaintiff has filed the present civil revision under Article 227 of the Constitution of India for setting aside the order dated 12.01.2018 (Annexure P-7) passed by learned Civil Judge (Junior Division), Ludhiana, whereby the application under Order VII Rule 14 CPC for production of original documents and to supply the copies of all documents relied upon by respondent No.3 Punjab National Bank, was dismissed.

Briefly stated, the petitioner-plaintiff had filed a suit for permanent injunction restraining the respondent-defendants including their family members, friends, attorneys, relatives, servants, mortgagee, employees, associates and assignees from interfering or causing any interference and dispossessing or causing any dispossession of the plaintiff from the hall situated on the first floor of the property, as shown in the head note of the plaint.

While the said suit was pending before the civil Court, the petitioner-plaintiff had filed an application under Order VII Rule 14 CPC for supplying the copies of original documents, which have been relied upon by the defendant No.3-bank. Therefore, a prayer has been made for issuance of a direction to the defendant No.3-bank to produce all the original documents on which the bank wants to rely and to supply the copies of such documents to the plaintiff.

The application under Order VII Rule 14 CPC was filed by the petitioner-plaintiff after filing of the application under Order VII Rule 11 CPC by the defendant No.3-bank for rejection of the plaint. While moving the application under Order VII Rule 11 CPC, the defendant-bank had made a reference of various facts and the documents which refer to creation of equitable mortgage, security documents/agreement executed by the borrower for the grant of credit facilities, cash credit facilities, sanctioned documents i.e. from 01.04.2005 to 31.08.2015 declaring the account as NPA, issuance of notice under Sections 13(2) and 13(4) of the SARFAESI Act, 2002 documents relating to the symbolic possession of mortgaged properties, agreements of continuing guarantee from 14.01.2005 to 31.08.2015 and sale deeds bearing Vasika No.4831 dated 30.06.1983 and security of hypothecation, guarantee deeds and other necessary documents i.e. firm documents of M/s Universal Woollen Mills. Therefore, in order to file proper reply to the application under Order VII Rule 11 CPC, it is necessary for the plaintiff to take into consideration the documents mentioned above.

Vide impugned order dated 12.01.2018, the aforesaid application under Order VII Rule 14 CPC filed by the petitioner-plaintiff was dismissed by learned civil Court.

Learned counsel for the petitioner-plaintiff has argued that the documents sought for under Order VII Rule 14 CPC, which have been relied upon by the defendant-bank are necessary and the production of original documents and supply of all mentioned documents is necessary for the plaintiff to enable him to file a proper reply to the application under Order VII Rule 14 CPC and the documents be shown to the plaintiff and the copies thereof be supplied to him.

I have heard learned counsel for the petitioner.

During pendency of the suit, the defendant-bank has filed an application under Order VII Rule 11 CPC for rejection of the plaint qua defendant No.3 in the light of a provision contained in SARFAESI Act, 2002. It has been pleaded by the defendant No.3-bank that the suit filed by the plaintiff qua the defendant-bank is not maintainable as jurisdiction of the civil Court is barred under the provision of SARFAESI Act, 2002 and the proper and efficacious remedy available to the plaintiff is to approach the Debt Recovery Tribunal by way of an appeal under Section 17 of the Act. There is no privity of contract between the plaintiff and the defendant-bank with regard to secured assets.

The application under Order VII Rule 11 CPC for rejection of the plaint was filed by the defendant No.3-bank along with the documents relied upon by the bank. The plaintiff has filed the application under Order

VII Rule 14 CPC for production of the original documents, which are being relied upon by the defendant-bank in its application under Order VII Rule 11 CPC. Since these documents are already on record having been placed by the defendant-bank, the petitioner-plaintiff has liberty to get copies of such documents by moving an appropriate application. Moreover, the application filed by the defendant No.3-bank under Order VII Rule 11 CPC has not been decided by the civil Court. No such material has been brought on record which can show that the application filed by the defendant No.3-bank under Order VII Rule 11 CPC has been decided by the civil Court. Thus, this Court finds that there is no illegality in the impugned order dated 12.01.2018 passed by learned civil Court.

Accordingly, the impugned order dated 12.01.2018 (Annexure P-7) passed by learned Civil Judge (Junior Division), Ludhiana is affirmed and the instant civil revision, being devoid of any merit, is dismissed.

(HARI PAL VERMA)
JUDGE

March 28, 2018
Yag Dutt

Whether speaking/reasoned: Yes

Whether Reportable: No