

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

C.R. No.5679 of 2017
Date of Decision.16.01.2018

Satpal and others

.....Petitioners

Vs

The Deputy Commissioner, District Yamuna Nagar and others

.....Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Krishan Singh, Advocate
for the petitioners.

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AMIT RAWAL J.(ORAL)

C.M. No.754-CII of 2018

Application is allowed.

Affidavit (Annexure P-5) is taken on record.

C.R. No.5679 of 2017

Learned counsel for the petitioners is aggrieved of the impugned order dated 21.07.2017 whereby the application seeking production of the documents during the cross-examination of the defendant has been dismissed.

Learned counsel appearing on behalf of the petitioners submits that nature of the suit spells out that action of the respondent-authority is an attempt to dispossess the plaintiffs and the documents sought to be summoned in the cross-examination of the defendant would be essential and necessary for adjudication of the *lis*. The Court below has put the responsibility on the petitioners-plaintiffs to produce the same while leading evidence in affirmative.

I have heard learned counsel for the petitioners and appraised the paper book. The nature of suit framed and the relief sought in the suit reads as under:-

“Suit for declaration to the effect that the order dated 28.02.2014 passed by the defendant No.3 vide which the defendant No.3 has ordered to dispossess the plaintiffs and to demolish the residential house of plaintiff constructed in khasra No.52, 299 shown as Panchayat deh situated at village Sasauli Majri, Tehsil Jagadhri, District Yamuna Nagar is, illegal, wrong, null, void, unconstitutional and is not binding upon the rights of the plaintiffs and for permanent injunction restraining the defendants from interfering in the actual, physical, peaceful continuous possession of the plaintiffs by demolishing the residential house of the plaintiffs constructed in Khasra No.52 and 299, either themselves or through their agents, servants, representatives, which the help of police or in any manner whatsoever.”

The contents of the application moved for directing the defendants to bring the documents at the time of defendants’ evidence read as under:-

“2. That in the year 2014, the corporation sent illegal notices u/sec 408-A of Haryana Municipal Corporation Act, 1994 to the plaintiffs, to which the reply was submitted by the plaintiffs and the Joint Commissioner was not satisfied with the reply of plaintiffs and rejected the same on 28.02.2014 and ordered to sent notice u/sec.408-A(2) of the Act to the plaintiffs. Thereafter, the plaintiffs filed appeals before Commissioner separately and the said appeals were accepted on 30.07.2015 and the notice u/sec.408-A and 408-A(2) were set aside, but no copy of orders

dated 30.07.2015 were supplied to the plaintiffs despite repeated by the plaintiffs.

2. That the above stated notices given by the corporation to the plaintiffs and reply given by the plaintiffs of the notices and grounds of appeals filed by the plaintiffs before Commissioner, Yamuna Nagar and the orders dated 30.07.2015 of the Commissioner, Yamuna Nagar are very much necessary for the cross examination of the official of the defendants. As such, it is requested that when the defendants appear in the case through its official into the witness box for evidence they may be asked to bring the above said files along with documents and orders so that proper cross examination could be done when he came into the witness box for evidence.”

On cumulative reading of the plaint and application, I am of the view that the aforementioned application was not required to be moved as it is open to the petitioners-plaintiffs to ask relevant question in cross-examination of the defendants’ witness by taking the aid of the provisions of Section 137 and 148 of the Indian Evidence Act.

While upholding the order, I do not intend to differ with the finding rendered by the trial Court. The revision petition is disposed of with the above observations.

(AMIT RAWAL)
JUDGE

January 16, 2018
Pankaj*

Whether reasoned/speaking	Yes
Whether reportable	No