

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

**Civil Revision No.7062 of 2016 (O&M)
Date of Order:30.04.2018**

M/s TNT India Pvt. Ltd.

..Petitioner

Versus

Girnar Hosiery Works (Regd.) and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Gaurav Bahl, Advocate, for
for the petitioner.

ANIL KSHETARPAL, J.

Defendant-petitioner is in the revision petition against the order passed by the learned trial court dated 20.08.2016, dismissing the application filed by the defendant-petitioner under Order 7 rule 14 read with under Order 13 Rule 1 read with Section 151 of the Code of Civil Procedure for not taking on record the documents filed by the plaintiff along with the affidavit of evidence.

Plaintiff filed a suit for declaration to the effect that demand of Rs.3,89,307/- raised by the defendants is illegal, null and void. Plaintiff also prayed for mandatory injunction directing the defendants to receive the balance amount of Rs.27,581.79 paise, which is outstanding and also directed to settle the accounts.

Defendants contested the suit and filed a written statement. Issues were framed. Case was fixed for plaintiff's evidence. Plaintiff led examination-in-chief by way of affidavit. He also produced on file various documents referred in the statement by way of affidavit. Affidavit along with documents were taken on record and exhibited.

Defendant-petitioner, thereafter, filed the application referred to above, submitting that as per Order 7 Rule 14 of the Code of Civil Procedure, the documents relied upon in the plaint are required to be produced while filing the plaint. Defendant-petitioner further referred to provisions of Order 13 Rule 1 of the Code of Civil Procedure to contend that the documents at the most could be produced before settlement of the issues.

The aforesaid application was contested and the learned trial court after examining various facts of the case, has held that the documentary evidence can be allowed to be produced with the leave of the Court and in this case the leave would be deemed to have been granted.

This Court has heard learned counsel for the petitioner at length and with his able assistance gone through the paper book.

Learned counsel for the petitioner has submitted that there is no concept of grant of deemed leave. He submitted that mandatory provisions of Order 7 Rule 14 of the Code of Civil Procedure have not been followed and, therefore, the order passed by the learned trial court is liable to be set aside.

Sub-Rule (3) of Rule 14 of Order 7 permits the plaintiff to produce documents which have not been produced with the plaint with the leave of the court. While granting the leave for production of document the court is not required to pass a detailed order. The leave of the court can certainly be inferred from the proceedings recorded by the court. In the present case, when the plaintiff produced documents, along with his affidavit in lieu of examination-in-chief, the court not only permitted the plaintiff to produce on file the affidavit but also permitted him to exhibit

the documents. Such being the position, the leave to produce the documents would be deemed to have been granted.

Learned counsel for the petitioner has relied upon the judgment passed by this Court in *Darshan Singh and others v. Gulzar Singh and others, (2015) 178, PLR, 216*. In the aforesaid judgment, on 18.03.2018, an order was passed by the court on an application under Order 7 Rule 14 read with Order 11 Rule 15 recording that since the original Will dated 05.01.1958 has not been produced on file, the court would draw necessary inference due to non production of the Will. This order was passed even before pleadings have been completed and before filing the written statement plaintiff filed an application. It was in these circumstances, this Court in the aforesaid judgment, directed the petitioner to examine the feasibility of the testamentary document at the time of final argument.

In the present case, counsel for the petitioner-defendant could not point out that any application was filed either before the completion of pleadings or even before settlement of the issues. Learned counsel for the petitioner-defendant also could not point out that when the affidavit for examination-in-chief was filed along with the documents, any objection was taken by the learned counsel for the defendant.

In these circumstances, this court does not find that the order passed by the learned trial court is required to be interfered with. The rules of procedure are meant to advance the interest of justice rather than for obstructing the trial of the suit.

Hence, the revision petition is dismissed.

April 30, 2018

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Whether speaking/reasoned

Whether reportable

(ANIL KSHETARPAL)

JUDGE

: Yes/No

: Yes/No