128 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-2005-2019 (O&M)
Date of decision: 08.08.2022

Surjit Kaur

....Petitioner

Versus

Mrs. Bhupinder Kaur and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Gaurav Rana, Advocate for the petitioner
Mr. Vishal Aggarwal, Advocate for the respondent

ANIL KSHETARPAL, J (Oral)

In a pending suit for grant of decree of declaration, an application filed by the plaintiff to summon the Clerk from the Income Tax Department in order to further cross-examine the defendant has been dismissed. The dispute is with regard to the partnership firm, which was running a business with Wassan Singh and Bhupinder Kaur as partners. Wassan Singh is stated to have died on 20.10.2007. The plaintiff is Wassan Singh's daughter. It is her case that she is entitled to 29% share in the partnership firm. In order to ascertain that fact, the assets and liabilities of the said firm are required to be examined. When the defendant appeared in evidence, the court directed her to produce the income tax returns, however, she did not produce said returns. Consequently, the plaintiff filed the aforesaid application, which has been dismissed.

The learned counsel representing the petitioner submits that income tax return filed for the year 2006-07 was filed by the defendant under her signatures and the plaintiff is required to question/grill the respondent with respect to the aforesaid return.

The trial court has dismissed the application by taking an extremely conservative view of the matter. Such document i.e the Income Tax return will help the court to adjudicate in a proper manner. The document is required to question/grill a witness as the defendant despite directions of the Court, has not produced the same. Hence, the plaintiff is well within his rights to pray for summoning the record from the Income Tax Department. Such evidence does not amount to filling up a lacuna rather it is going to help the court to adjudicate the suit efficiently. Consequently, the order under challenge is set aside. The application filed by the plaintiff is allowed. The petitioner is permitted to summon the relevant record alongwith the concerned official from the department.

The petition stands allowed.

All the pending miscellaneous applications, if any, are also disposed of.

08.08.2022 **(ANIL KSHETARPAL)**
rekha **JUDGE**
Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No