

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

270

CR-1731-2021

Decided on : 24.03.2022

Rajesh Kumar

... Petitioner(s)

Versus

Dirba Buildcon Pvt. Ltd.

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

(Through Video Conferencing)

PRESENT: Mr. Parveen Kumar Garg, Advocate
for the petitioner(s).

Mr. Tushar Sharma, Advocate
for the respondent(s).

MANJARI NEHRU KAUL, J. (Oral)

The instant revision petition has been filed under Article 227 of the Constitution of India, with a prayer to set aside the order dated 09.08.2021 (Annexure P-1), vide which the petitioner's application for directing the plaintiff to produce alleged original agreement of mutual consent/writing dated 10.03.2015, for his scrutiny was disposed of with a direction to the petitioner, instead of the respondent, to produce the aforementioned original agreement at the relevant stage with the prior permission of the Court, failing which, an adverse inference would be drawn against him.

Learned counsel submits that the case of the plaintiff/respondent is based on an agreement dated 10.03.2015, and he had placed on record only a photocopy of the same. Learned counsel submitted that since the alleged agreement was a forged and fabricated document, therefore, the petitioner/defendant wanted to inspect the original agreement. However, the trial Court instead of issuing the directions to the plaintiff/respondent to produce the said agreement in the original, burdened the petitioner/defendant to produce the same. Learned counsel submitted that on the face of it, the impugned order was a non-speaking order and erroneous, as there was nothing on record to even remotely suggest that the petitioner/defendant was in possession of the original agreement.

Learned counsel for the respondent/plaintiff while opposing the prayer of the counsel opposite, submitted that the impugned order did not suffer from any illegality and in fact, had been passed after appreciating the material on record.

I have heard learned counsel and perused the relevant material on record including the impugned order.

This Court fails to comprehend as to on what basis the trial Court in its 'wisdom' concluded that the petitioner was in possession of the alleged original agreement dated 10.03.2015. Except, the allegations of both the parties to the effect that the other side was in possession of the said agreement, there was nothing on record from which it could be discerned that the petitioner could have been in possession of the original agreement.

Therefore, in the absence of any cogent material on record, the trial Court was not justified and gravely erred in directing the petitioner/defendant to produce the original agreement at the relevant stage of trial with the prior permission of the Court and further to even draw an adverse inference against him on his failure to produce the same.

As a sequel to the above, the instant revision petition is allowed and the impugned order dated 09.08.2021 (P-1) is hereby set-aside.

(MANJARI NEHRU KAUL)
JUDGE

March 24, 2022

J.Ram

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*