

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

CR-1182-2022 (O&M)

Date of Decision : 17.02.2023

Bachan Kaur @ Manjit Kaur

....Petitioner

VERSUS

Kuldip Kaur @ Marina Jayne Squires and Another

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Rishabh Gupta, Advocate for the petitioner.

Mr. Saurabh Arora, Advocate for respondent No.1.

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ALKA SARIN, J. (Oral)

The challenge in the present revision petition under Article 227 of the Constitution of India is to the impugned order dated 26.10.2021 vide which the application filed by defendant No.1-petitioner under Order 11 Rule 14 CPC for production of the documents has been disposed off.

The grievance of the defendant No.1-petitioner in the present case is that there are certain documents at Sr. Nos.2, 3, 5, 6 and 7 in possession of the plaintiff-respondent No.1 and that she has refused to produce the same.

Learned counsel for defendant No.1-petitioner has relied upon **Union of India Vs. M/s Kanhiya Dhaliwal Developers & Others [CR No.3868 of 2015 decided on 18.12.2015], Onkar Singh Vs. Ravinder Malhotra [2013 (36) RCR (Civil) 684], Desa Singh through LRs Vs. Sukhraj Kaur & Ors. [2019 (2) PLR 715], Sharvan Kumar Vs. Sumeet**

Kumar Garg [2002 (3) PLR 666], The Tata Iron and Steel Co. Ltd. & Ors. Vs. Prop. Ajit Cotton Ginning Pressing Dall & Steel Rolling Mills [2013 (1) RCR (Civil) 506] to contend that while deciding an application under Order 11 Rule 14 CPC, the Court has to record its satisfaction regarding the necessity and relevance of the documents.

Per Contra, learned counsel for the plaintiff-respondent No.1 has contended that the Trial Court vide the impugned order dated 26.10.2021 has already noticed that the plaintiff-respondent No.1 was restrained from placing on record documents mentioned at Point Nos.2, 3, 5, 6 and 7 without prior permission of the Court and hence there is no ground for interference in the present revision petition. Learned counsel for the plaintiff-respondent No.1 has relied upon **Zari Bai Vs. Smt. Sonia & Ors. [2018 (2) PLR 659]**, **Surjit Kaur & Anr. Vs. State of Haryana & Ors. [2016 (4) Law Herald 3550]** and **Municipal Corporation, Faridabad & Anr. Vs. Dharambir & Ors. [2013 (26) RCR (Civil) 923]**.

Heard.

The brief facts relevant to the present lis are that the plaintiff-respondent No.1 filed a suit with the following prayers :

“Suit for Declaration to the effect that the judgment/decreed passed by this Court of Ms. Amandeep Kaur Chauhan, PCS, Civil Judge Junior Division, Gurdaspur, bearing Civil Suit No.540 of 2007 dated 14.12.2007, titled as “Bachan Kaur @ Manjit Kaur Vs. General Public” decided on dated 03.12.2011, is illegal, null, void and result of fraud concealment of

true facts and has no effects upon the legal rights, title, interest of the plaintiff, and the same is liable to be set aside.

And

Suit for permanent injunction for restraining the defendant No.1 Bachan Kaur @ Manjit Kaur not to use the impugned judgment and decree dated 03.12.2011 passed in civil suit No.510 of 2007 titled as “Bachan Kaur @ Manjit Kaur Vs. General Public” by the Hon’ble Court of Ms. Amandeep Kaur, PCS, Civil Judge, Junior Division, Gurdaspur and restraining the defendant No.1 not to alienate the property inherited by her of the estate of Pyara Singh (now deceased) on the basis of judgment decree dated 03.12.2011 in question.”

The plaintiff-respondent No.1 claimed herself to being the widow and legal heir of Pyara Singh and that defendant No.1-petitioner by playing fraud with the plaintiff-respondent No.1 and in order to grab the share of the plaintiff-respondent No.1 in the estate of Pyara Singh filed the case titled as Bachan Kaur @ Manjit Kaur Vs. General Public [Civil Suit No.540 of 2007 dated 14.12.2007] by proclaiming herself that she was the sole survivor of Pyara Singh and claimed that she was entitled to the movable and immovable property of Pyara Singh. The plaintiff-respondent No.1 challenged the said judgment and decree as being illegal, null and void and a result of fraud. After the evidence of the plaintiff-respondent No.1

was closed, an application was filed by the defendant No.1-petitioner under Order 11 Rule 14 CPC for production of documents. The following documents were mentioned in the said application :

- i.) Attested/certified recent copy of the passport of plaintiff;
- ii.) Attested/certified Card of citizenship issued by the Canada Country of plaintiff;
- iii.) Attested/certified Social Security Insurance Card issued by Canada country;
- iv.) Attested/certified Any document in Canada proves relationship as husband with late Piara Singh s/o Sh. Lakha Singh R/o Village Mustfabad, District Kapurthala, Punjab, India.
- v.) Attested/certified Certificates of Date of Birth of plaintiff's sons namely Bhalinder Singh Dhillon and Nishan Singh;
- vi.) Attested/certified copy of the passport when plaintiff entered in the Canada country;
- vii.) Attested/certified Copy of application filed by plaintiff to get citizenship of Canada country.

A reply was filed by the plaintiff-respondent No.1. Thereafter, the counsel for the plaintiff-respondent No.1 also suffered a statement that the documents sought at point 1 and 4 had been placed on the record and that the documents mentioned at point 2 and 7 had been misplaced and further that the plaintiff-respondent No.1 did not want to produce the

documents mentioned on point 3 and 6 and that further she was not in possession of document demanded at point No.5. The Trial Court vide impugned order dated 26.10.2021 disposed off the application by holding as under :

“.....Therefore, the present application for production of documents is disposed off whereby plaintiff/respondent is restrained from placing on record documents mentioned in point No.2 and 3, 5, 6 and 7 as mentioned in the application without prior permission of the Court during further proceedings of the case and if the plaintiff produces these documents at a later stage then the conduct of the plaintiff shall be open to an adverse inference to be drawn at the appropriate stage of this case.”

Order 11 Rule 14 CPC reads as under :

“14. Production of documents : It shall be lawful for the Court, at any time during the pendency of any suit, to order the production by any party thereto, upon oath of such of the documents in his possession or power, relating to any matter in question in such suit, as the Court shall think right; and the Court may deal with such documents, when produced, in such manner as shall appear just.”

A perusal of the provisions of Order 11 Rule 14 CPC clearly

reveals that the Court may at any time during the pendency of the suit, order

the production of such documents in possession or power of the party. In the present case two documents have been produced, namely, those at points 1 and 4. Qua documents at points 2 and 7 it was stated that the documents have been misplaced and qua documents at points 3 and 6 it was stated that the plaintiff-respondent No.1 did not want to produce the said documents. The document at point 5 was stated to be not in possession of the plaintiff-respondent No.1.

It is trite that production of the documents in terms of Order 11 Rule 14 CPC can be ordered by the Court only after satisfying itself about the relativity or essentiality of production of the such documents.

This Court in the case of Desa Singh (supra) has held as under:

“10. From the arguments raised by learned counsel for the parties, this Court finds that the defendant has not denied the existence of document in specific terms, rather the stand taken by the defendant is that she will lead evidence/documentary evidence at the relevant time. The Court has to satisfy itself with regard to necessity and relevancy of the document. The Court has to record its satisfaction in terms of provision of Order 11 Rule 12 CPC that the document in question is not necessary 5 of 7 either for disposing fairly of the suit or for saving costs. On that premise, the Court has to record findings in respect of satisfaction and the possession of the document with the defendant. It appears from the record that the trial Court has not

acted in a judicious manner to answer the compliance of Order 11 Rules 12 and 14 CPC while deciding the application in question.

11. In Sharvan Kumar Vs. Sumeet Kumar Garg, 2002(3) PLR 666, it was held that nature of provision itself does not leave any room to refuse such a request. The only exception that can be made is with regard to privilege document under Sections 122, 123 and 124 of the Indian Evidence Act. This rule is entirely different to Order 11 Rule 12 CPC which is confined to discovery of document. Under Order 11 Rule 14 CPC, all the documents are required to be produced as long as they are found to be relevant. Under Order 11 Rule 12 CPC, party can be asked to make discovery on oath, of document which is in his possession or power. If such discovery is found to be unnecessary, then such a prayer can be rejected on the ground that it is not necessary for disposing of the suit.”

A perusal of the impugned order passed by the Trial Court reveals that neither the relevancy of the documents has been discussed nor as to whether the documents are essential for determination of the point in issue. The judgments referred to by the learned counsel for the plaintiff-respondent No.1 are distinguishable on facts. That being so, the impugned order dated 26.10.2021 cannot be sustained and is set aside and the Trial

Court is directed to pass a fresh order in accordance with law.

The present revision petition stands disposed off accordingly.

Pending applications, if any, also stand disposed off.

February 17, 2023
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(ALKA SARIN)
JUDGE

NOTE : Whether speaking/non-speaking : Speaking
Whether reportable : YES/NO