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

C.R NO. 4608 OF 2022

DATE OF DECISION: 25.01.2023

Vijender Kumar

...Petitioner

Versus

Mukesh Kumar

...Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Ravinder Malik, Advocate,
For the petitioner.

None for the respondent, despite service.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for setting-aside order dated 29.07.2022 (Annexure P-13) passed by learned Civil Judge (Junior Division), Panchkula, whereby application filed by plaintiff/petitioner under Order 11 Rule 14 CPC, was dismissed.

2. Suit for mandatory injunction with consequential relief of permanent injunction was filed by plaintiff/petitioner directing the respondent to return the blank signed papers, stamps papers, six pronotes total amounting to Rs.3,00,00,000/- and further cheques bearing No.168098 dated 06.04.2017, No. 168097 dated 06.06.2017, No. 168096 dated 06.08.2017, No. 168095 dated 06.09.2017, 168094 dated 06.09.2017 and No. 168093 dated 06.12.2017 amounting to Rs.50,00,000/- each and fake compromise with regard to flats of

Asha Panchkula situated at village Kot, Sector-14/A, Panchkula Extension-II.

3. Plaintiff/petitioner herein moved an application under Order 11 Rule 14 read with Section 151 CPC seeking directions to defendant to produce original cheques, promissory notes, hand written stamp papers in Court which was dismissed by learned trial Court vide impugned order 29.07.2022 (Annexure P-13) primarily on the ground that documents in question are not with defendant and are part of police file in FIR No. 0229 dated 28.08.2019 under Section 420 IPC registered at Police Station Sector-31, Chandigarh.

4. Learned counsel for the petitioner points out that para 2 of the reply to application seeking production of documents reveals that respondent admits that he is indeed in possession of documents which have been sought to be produced by him vide application preferred by petitioner yet the trial Court dismissed the application. He further argues that learned trial Court failed to appreciate that the entries as “*Fard*” with police are only photocopies and not original documents.

5. I have heard learned counsels for petitioner and have gone through the records.

6. In order to appreciate the arguments canvassed by learned counsel for petitioner, it would be apposite to reproduce para 2 of the reply filed by defendant/respondent to the application under Order 11 Rule 14 CPC, which reads as under:

“XXX

2. *That the contents of para 2 of the application are correct to the extent that the plaintiff filed false and frivolous suit against the defendant. Rest of the para is wrong and hence denied. **The documents were in legal custody or possession of the defendant** and the defendant has further handed over the said documents to the police during investigation in the above noted case/FIR and the said fact is well known to the plaintiff himself. The plaintiff has no right to claim the said documents even the relief of plaintiff is qua mandatory injunction. The plaintiff has no right to claim the said documents which he has executed in favour of the defendant.*

(emphasis supplied)

Xxx”

7. For ready reference, Order 11 Rule 14 CPC is stated as below:

“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.”

8. Perusal of Rule 14 of Order 11 CPC *ibid* clearly shows that there is no embargo on the powers of the Court to order the production of documents in possession/power of a party, at any time during the pendency of the suit. In the instant case, defendant/respondent has minced no words in admitting that the documents were indeed in his legal custody or possession, though he has attempted to improve upon in the very next sentence that he had handed over the said documents to the police during investigation.

There is force in the arguments of learned counsel for petitioner that

entries as “Fard” with the police are not original documents but photocopies thereof. This reinforces the plea of petitioner/plaintiff that original documents are actually in possession/power of respondent/defendant.

9. Despite service, no one has caused appearance on behalf of respondent, which is suggestive that respondent does not want to contest the revision petition and consents to same being allowed.

10. In the premise, the instant revision petition is allowed. Impugned order dated 29.07.2022 (Annexure P-13) is set-aside, the petitioner’s application (Annexure P-11) under Order 11 Rule 14 CPC is allowed and defendant/respondent is directed to place on record of learned trial Court the documents mentioned in the head note of plaint.

11. Pending application(s), if any, shall also stand disposed of.

JANUARY 25, 2023
Shalini

(ARUN MONGA)
JUDGE

Whether speaking/reasoned :
Whether reportable :

Yes/No
Yes/No