

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

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CWP-24604-2023 (O&M).
Date of Decision: 30.11.2023.

EX. NAIB SUB. (SKT) DINESH SINGH

... Petitioner

Versus

UNION OF INDIA AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Sumit S. Bairagi, Advocate,
for the petitioner.

Mr. Narender Kumar Vashist, Senior Panel Counsel,
For respondents No.1 to 5/Union of India.

VINOD S. BHARDWAJ, J. (ORAL)

Prayer made in the present writ petition is for seeking issuance of directions to the respondents to produce the documents as specified in the application dated 17.05.2022 (Annexure P-2) and for an expeditious decision in the Civil Suit No.CS/1089/2017 dated 24.11.2017 (Annexure P-1).

Learned counsel for the petitioner has contended that the petitioner had filed a suit for declaration to the effect that the period of confinement of the petitioner for 252 days i.e. with effect from 01.02.2005 to 03.03.2006 was illegal and has claimed compensation to the tune of

Rs.60 lakhs against the respondents. The above said Civil Suit No.CS/1089/2017 dated 24.11.2017 is pending consideration before the Civil Judge (Jr. Divn.) Charkhi Dadri. The respondents-defendants were proceeded against ex parte vide order dated 07.09.2018 and finally the defendants filed their written statement on 07.07.2021 after depositing costs. An application under Order 11 Rules 15 and 16 of the Code of Civil Procedure, 1908 along with notice Appendix C Form No.7 had been filed by the petitioner on 17.05.2022 calling upon the respondents (defendants therein) to produce the following documents:-

- “i) Certified record of the Discharge book of Ex Naib Sub Dinesh Singh JC No. 643056-X.*
- ii) Certified record of the Discharge application and Discharge letter dated 31.01.2005 and release order dated 03.03.2006.*
- (iii) Certified record of order of arrest dated 01.07.2005.*
- iv) Certified record of letter of misappropriation of Government property dated 31.01.2005.*
- v) Certified record of Court martial proceedings from date of detention i.e. 31.01.2005 to 03.03.2006 along with order of arrest and order of release.”*

The above said documents were required by the petitioner-plaintiff for establishing his claim for wrongful confinement. The respondents-defendants were called upon to produce the said documents, however, neither the reply has been filed nor the documents have been filed despite the trial Court having granted the opportunity on 12.09.2022, 16.02.2023, 17.07.2023 and 24.07.2023. The petitioner has filed the instant

petition for the inordinate delay which has been caused by respondents on one pretext or the other.

On the last date of hearing, learned counsel appearing on behalf of the respondents had sought time to complete instructions. Today, on resumed hearing, it has been submitted by him that the documents in question pertain to the year 2005 and that an earnest effort is being made to trace the same. He is, however, not in a position to assign any timeline within which such documents can be traced.

I have heard the learned counsel appearing for the respective parties and have also gone through the documents appended along with the present petition.

The delay in the proceedings is partly attributable to the respondents-defendants and partly to the petitioner-plaintiff himself. Order 11 Rules 15 and 16 of the Code of Civil Procedure, 1908, set out the procedure for inspection of documents referred to in the pleadings or affidavits and mandated a defendant to produce the said documents. Order 11 Rule 21 prescribes the consequences for non-compliance with the order for discovery.

Once the timeline as prescribed in the Code of Civil Procedure, 1908, is not met, the plaintiff is required to make an appropriate request for proceeding further in the matter in terms of the mandate of Order 11 Rule 21 CPC.

The present petition is thus misconceived and has been filed on account of failure to examine the appropriate statutory remedy that is

available to the petitioner-plaintiff on account of a non-compliance of the order.

The present writ petition is accordingly disposed of with liberty to the petitioner to pursue his remedies as per law.

November 30, 2023.
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(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned

Whether reportable

: Yes/No

: Yes/No