



131 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-107-2023(O&M)
Date of decision : 18.07.2024

Rajeev Garg ...Petitioner

Vs.

Harish Garg and another ...Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. J.K. Singla, Advocate
for the petitioner.

Mr. Rajesh Narang, Advocate and
Mr. Abhinav Narang, Advocate
for the respondent.

ANIL KSHETARPAL, J. (Oral)

1. This revision petition has been filed by the defendant to assail the correctness of the trial Court's order passed on 17.11.2022, while disposing of his application under Order 11 Rule 21 of the Code of Civil Procedure, 1908. The plaintiffs' suit for recovery of Rs.16,32,000/- from the defendant is pending before the trial Court. During the pendency of the suit, the defendant filed an application for direction to the plaintiffs to produce certain documents, which was allowed on 04.12.2019. Pursuant thereto, the plaintiffs produced some of the documents, for which the direction was issued. However, they failed to produce the remaining documents. The defendant filed an application under Order 11 Rule 21 of the Code of Civil Procedure, 1908 to dismiss the plaintiffs' suit for non-prosecution.

2. The Court has disposed of the application with the following



directions:-

“As far as remaining documents are concerned, plaintiff has not produced those documents even on directions of the court, as such, he is barred from producing these documents on file in his favour without permission of the court and relevant inference will be taken at relevant stage in this case. As far as application in question is concerned as documents so available with the plaintiff have been produced on record by the plaintiff. As such, application cannot be allowed. However, keeping in view of the facts that plaintiff has taken number of opportunities and has delayed case to an extent, he is burden with costs of Rs.500/- to be paid to defendant. Application stand disposed off. Let case be adjourned to 16.12.2022 for filing written statement.”

3. Learned counsel representing the petitioner contends that under Order 11 Rule 21 of the Code of Civil Procedure, 1908, the Court is required to dismiss the suit for prosecution.

4. *Per contra*, the learned counsel representing the respondents submits that Order 11 Rule 21 of the Code of Civil Procedure, 1908 is not applicable because the aforesaid provision is with reference to a party's failure to answer interrogatories, or for discovery or inspection of documents.

5. This Court has considered the submissions made by the learned counsel representing the parties.

6. In the considered opinion of the Court, at this stage, it would not

be appropriate to dismiss the suit for non-prosecution. It is left to the trial court to consider the impact of failure of the plaintiffs to produce the documents at appropriate stage, in accordance with law.

7. With these observations, the revision petition is disposed of.
8. All the pending miscellaneous applications, if any, are also disposed of.

18.07.2024
neeraj

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No