IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-8269-2018(O&M)
Date of Decision: July 19, 2024

Sanjay Kumar

...Petitioner

Versus

Chekka Sesha Krishna Chaitanya and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Dinesh Arora, Advocate
for the petitioner.

Mr.Praveen Chauhan, Advocate
for the respondents.

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ARCHANA PURI, J.

Challenge in the present revision petition is to the order dated 06.08.2018 (Annexure P-4), passed by learned trial Cout, whereby, an application filed by the petitioner-plaintiff, for issuance of directions to respondents-defendants, to produce the computation of balance sheet for the assessment years 2015-16, 2016-17 and 2017-18, was dismissed.

The facts germane, to be noticed are as follows:-

That, initially, petitioner-plaintiff had field a suit for declaration, dissolution of firm, rendition of account and permanent injunction against the respondents-defendants. During the pendency of the suit, an application was filed, at the instance of the petitioner-plaintiff, copy whereof is

Annexure P-3, thereby, seeking issuance of directions to the respondents-defendants, to provide computation of balance sheet, as observed aforesaid. Therein, while giving the details of the manner of interest held by the petitioner-plaintiff in the partnership firm i.e. M/s C.S.Corporation, further, it is stated that the annual return had to be filed and therefore, the balance sheet is required to be produced, which is in the possession of the respondents-defendants.

However, reply to the said application was never filed.

After appraisal of the material coming forth, learned trial Court had dismissed the said application.

Being aggrieved, the petitioner-plaintiff has filed the present revision petition.

In pursuance of the notice issued, respondents-defendants made appearance through counsel.

Learned counsel for the parties heard.

As observed aforesaid, the suit for dissolution of the partnership firm, existing between the petitioner and the respondents was filed and it is categoric claim, coming forth, at the instance of the petitioner-plaintiff that books were maintained and managed by the respondents-defendants and they started to show losses in the accounts of firm. In this regard, it is pertinent to mention that, paragraph No.7 of the written statement, which clinches the matter and the same is reproduced, as herein given:-

"7. As 31, March 2015 is financial year ending for business, we

have requested Mr.Sanjay to provide end of year statements such Profit & loss, balance sheet etc. In spite of several requests through phone and physically we were told that account was changed as the accounts were not handled efficiently and a new accountant Mr.Anoop was appointed, hence it will take time. Even after month or so no data was provided, so we visited Mr.Sanjay again and asked him the status but we were told as he has no prior business experience he was not able to figure out accounts and business profit status. Point to be noted is we have extended our help several times in several issues from sale, purchase to accounts but Sanjay was never willing to seek any help and we were told he would take care of things. But still as accounts were not getting finalized, so we have insisted to get technical person help like Auditor. Also a situation has occurred that a compulsory Audit to be filed by last date. Hence we have appointed Mr.Kamal Rai, Internal Auditor based in Mayur Vihar, Delhi itself so that it would be easier to Mr.Sanjay to finalize accounts, but even after several attempts Mr.Sanjay has not provided complete data and has not been in touch with Mr.Kamal, he sent Mr.Anoop (accountant) along with account books for a very short period and immediately recalled Mr.Anoop along with account books stating several reasons. Hence a situation occurred that we had to file statutory obligation of Final balance sheet."

From the contents of the said paragraph, it is evident that respondents-defendants had filed the final balance sheet, though, under the constrained circumstances, considering the statutory obligation. Now, it is submitted that the requisite documents are not with the respondents-defendants. However, it is submitted that documents, ought to be with Mr.Kamal Rai, Internal Auditor or the petitioner.

In the light of the aforesaid submission, learned counsel for the petitioner-plaintiff has drawn the attention of the Court to Annexure P-5, which is income tax return acknowledgement, which relates to the assessment year 2015-16 and it has been digitally signed by 'CH.S.K.CHAITANYA', who is respondent No.1, in the capacity of managing partner of the firm. Thus, considering the same, it becomes evident that if the return has been filed by the respondent No.1, the balance sheet ought to be available with the respondents-defendants.

In the given circumstances, the impugned order is hereby set aside and the application for production of the documents, as stated in the earlier portion of the order, is allowed. The parties are directed to make appearance before learned trial Court, on the next date fixed and on appearance of the parties, learned trial Court, shall grant 10 days time' to the respondents-defendants to provide copies of the documents, as sought, in the subject application. In the eventuality of non-production of the said documents in the given time, learned trial Court shall proceed further, in accordance with law, while driving adverse inference of non-production of the documents.

In view of the aforesaid terms, the present revision petition stand allowed.

July 19, 2024 **(ARCHANA PURI)**
Vgulati **JUDGE**

Whether speaking/reasoned **Yes**
Whether reportable **Yes/No**