



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

CR-901-2024 (O&M)
Date of Decision:-29.05.2024

Daljit Singh Rattan

... Petitioner

Versus

Jasvinder Kaur and Others

... Respondents

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CORAM: HON'BLE MRS. JUSTICE RITU TAGORE

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Argued by :- Mr. Harinder Kumar Aurora, Advocate
for the petitioner.

Mr. Raj Pal Singh, Advocate (Legal Aid Counsel)
for respondent No.1.

Respondents No.2, 3 and 4 proforma respondents.

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RITU TAGORE, J.

1. This revision is directed against the order dated 02.01.2024 (Annexure P-1) passed by learned Civil Judge (Junior Division), Mohali whereby application (Annexure P-12) moved by petitioner (plaintiff before the learned trial Court) under Order 8 Rule 11 read with 151 CPC, for discarding the documents Annexures R-1 to R-32 produced by respondent No.1 (defendant No.1 before the learned trial Court) was dismissed.

2. Learned counsel for the petitioner, contends that petitioner instituted a suit against the respondents No. 1 to 4 (defendants No. 1 to 4



before the learned trial Court), seeking to declare as void the renewal of passport No.T-5121859/H4-386598 by respondent No.1, in which she claimed to be the legally wedded wife of petitioner, and to have the passport cancelled. Additionally, the petitioner sought the relief of permanent injunction, restraining respondent No.1 from claiming the status of legally wedded wife of the petitioner, and claiming any right and title in the apartment No.1102, 11th Floor, Tower-10, Sky Gardens Sector 66-A, Mohali or any other property belonging to the petitioner or causing any interference in use of property or causing mental and physical torture to the plaintiff in any manner (Annexure P-1/A). It is asserted by the petitioner that respondent No.1 was the caretaker of the petitioner and not his wife. She obtained her passport by falsely claiming to be the wife of the petitioner, based on some false documents, provided to the police.

3. Along with the main suit, it is stated by the learned counsel that petitioner also filed an application under Order 39 Rules 1 and 2 CPC, seeking an interim injunction against respondents No.1 to 3, restraining them from causing any obstruction or interference in the petitioner's use of suit property and causing physical and mental torture to him in any manner.

4. Learned counsel for the petitioner, argues that respondents No.1 contested both the suit and interim-injunction application, and produced documents (Annexure R-1 to R-32), on record without following the due procedure of law, at the back of the petitioner. The documents were neither relied upon nor listed and annexed with the written statement. Despite this, learned trial court, wrongly relied upon those documents and dismissed the



plaintiff's application filed under Order 39 Rules 1 and 2 CPC, which is now under challenge in appeal.

5. Learned counsel submits that the petitioner moved an application under Order 8 Rule 11 read with Section 151 CPC before the learned trial Court for discarding the documents (Annexures R-1 to R-32), having placed on file without following the provisions *ibid*. Learned counsel states that learned lower Court dismissed the application in arbitrary and illegal manner, without appreciating the fact that respondent No.1 had placed on record the documents without adhering to the procedure. It is urged that impugned order is unsustainable in the eyes of law and should be set aside. In support of his contention, learned counsel referred to the decision rendered by Single Judge of Madhya Pradesh High Court at Indore in **Narayan vs. Sakharam and Others, 2023 SCC OnLine MP 2052**.

6. Contra, learned counsel for respondent No.1 (defendant No.1 before the learned trial Court) urges that first of all the application moved under Order 8 Rule 11 read with Section 151, CPC was misconceived. Rule 11 of Order 8 CPC does not deal with the rejection of documents. Secondly, documents (Annexures R-1 to R-32) were produced during course of arguments (as indicated in the order dated 01.07.2023), and not at the back of the petitioner, as alleged. Learned counsel submits that documents were material and relevant to the controversy. The learned trial court, after considering all the facts, rightly dismissed the application of the petitioner. It is urged that, there being no merit in the revision, it should be dismissed.



7. I have heard the learned counsel for the parties and have gone through the material available on the paper book through their valuable assistance.

8. It is a matter of record that petitioner has filed a suit for declaration and permanent injunction (Annexure P-1/A) against respondent No.1 and others, which is pending adjudication before the learned trial Court. Suffice to say, an application for grant of interim injunction under Order 39 Rules 1 and 2 CPC, filed by the petitioner against respondent No.1 and others was dismissed by learned trial Court and appeal is pending before the learned Appellate Court.

9. Learned trial Court in the impugned order dated 02.01.2024 (Annexure P-1), has mentioned that the documents (Annexure R-1 to R-32), consisting of copy of order dated 20.02.2023, copy of affidavit of defendant No.1, copy of Affidavit of Jogh Singh Granthi of Gurudwara Sahib, copy of passbook, copy of marriage card of daughter of plaintiff, 19 photographs to show relationship of plaintiff and defendant no.1, photograph of marriage of daughter of plaintiff, copy of petition under section 13-B Hindu Marriage Act, 1955, copy of passport of plaintiff, copy of account opening sheet, copy of Air Tickets, copy of passport of plaintiff and copy of statement of plaintiff, were tendered during course of arguments and not along with the written statement and no formal application was moved by respondent No.1 for producing the same on record. Learned trial Court observed that since documents were taken on record, they cannot be discarded, however, the petitioner can always challenge them on the point of their admissibility or relevancy. Further, finding no merit in the application moved under Order 8



Rule 11 read with Section 151 CPC, the learned trial Court dismissed the same.

10. At the outset, it is important to mention that Rule 11 was added to Order 8 CPC as applicable to State of Punjab and Haryana, does not deal with discarding of the documents. This Rule concerns the requirement for every party to provide an address for service after appearance, and failure to comply may result in striking of the defence. On the other hand, Order 8 Rule 1-A CPC deals with the defendant's duty to produce documents upon which relief is required by the defendant. The gist of the application (Annexure P-12) and the arguments addressed by the counsel for the petitioner was about the rejection of documents (Annexure R-1 to R-32) placed on record without following the procedure. Therefore, at this stage, it would be expedient to go through the provisions of Order 8 Rule 1-A CPC:-

“1A. Duty of defendant to produce documents upon which relief is claimed or relied upon by him:-

(1) Where the defendant bases his defence upon a document or relies upon any document in his possession or power, in support of his defence or claim for set-off or counter-claim, he shall enter such document in a list, and shall produce it in Court when the written statement is presented by him and shall, at the same time, deliver the document and a copy thereof, to be filed with the written statement.

(2) Where any such document is not in the possession or power of the defendant, he shall, wherever possible, state in whose possession or power it is.

(3) A document which ought to be produced in Court by the defendant under this rule, but, is not so produced shall not, without



the leave of the Court, be received in evidence on his behalf at the hearing of the suit.

(4) Nothing in this rule shall apply to documents-

(a) produced for the cross-examination of the plaintiff's witnesses, or

(b) handed over to a witness merely to refresh his memory.”

11 Perusal of the above provision would indicate that purpose of sub-Rule (3) of Rule 1-A, is to ensure that any document/documents which defendant seeks to file subsequently, must not be accepted for the asking only. The word ‘shall’ employed in the Rule, makes it mandatory upon the Court, not to receive such document in the Court, without the leave of the Court.

12. Apparently, the documents (Annexures R-1 to R-32) in question were not produced on record in compliance with provisions of Order 8 Rule 1-A(1) CPC. The provisions of Order 8 Rule 1-A(3) provides that documents presented without following the due procedures outlined in sub-Rule 1 and 2 of Order 8 CPC shall not be received in evidence on behalf of the defendant, without the leave of the Court. Thus, as per the mandate of the Rule *ibid*, these documents, cannot be received in evidence on behalf of the defendant, without the leave of the Court. Therefore, discretion vests with the Court either to receive such documents by granting permission to party to the suit, as the case may be.

13. Learned trial Court dealing with the objections raised by the petitioner in the application, observed that petitioner may raise objections with respect to the admissibility of documents (Annexures R-1 to R-32), at



the time of their production in the evidence. At this juncture, the provisions of Order 13 Rule 3 CPC may also be noticed, which provides for rejection of irrelevant or inadmissible documents. In view of the above, this Court is of the opinion that the observations of the learned trial Court addresses petitioner's concern regarding the admissibility of the documents. The appeal against the dismissal of order of interim injunction is pending decision before learned Appellate Court. The petitioner is at liberty to raise objections as to the admissibility of the documents, for non-compliance of provisions of Order 8 Rule 1-A CPC before the Courts concerned.

14. For the reasons stated above, I find there is no ground to interfere in the order dated 02.01.2024 (Annexure P-1) passed by learned trial Court. Accordingly, this revision petition is dismissed.

15. It is noted that observations made above should not be construed as an expression of opinion on the merits of the case. Same are purely confined to the present controversy and deliberations.

16. Since the main case has been decided, pending miscellaneous application(s), if any, are also disposed of accordingly.

29.05.2024
Gaurav Sorot

(RITU TAGORE)
JUDGE

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No