IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.144

CR-4032-2024
Date of Decision: 22.07.2024

VINOD JAIN

....Petitioner

Versus

ABANT KUMAR JAIN AND ANR

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. Aayush Gupta, Advocate
for the petitioner.

*****

ARCHANA PURI, J. (Oral)

Challenge in the present revision petition is to the order dated 29.04.2024, passed by the court below, whereby an application for summoning of the record, filed at the instance of the petitioner/plaintiff, was dismissed.

As culled out from the paperbook, during the pendency of the suit for mandatory injunction filed at the instance of the petitioner/plaintiff, respondent No.1, who is defendant No.1, before the Court below, was examined in the Court as DW-2 and part cross-examination was conducted. In view of the contents of the cross-examination, copy whereof has been placed on record as Annexure P-5, an application for summoning of the income tax record was filed, copy whereof is Annexure P-6. The said application was dismissed, vide the impugned order.

It is now submitted by learned counsel for the petitioner that there was partnership firm between the petitioner as well as respondent, for doing the business. Thus property was given by the petitioner. However, the said partnership firm was dissolved and thereupon, the petitioner/plaintiff had filed a suit for mandatory injunction, thereby seeking the respondent to return the property, which was given by him, for the purposes of doing the partnership business, as the partnership has since dissolved.

After closing of his evidence, when DW-2, Abant Kumar Jain, the other partner was being examined. In the cross-examination, though he has deposed about the filing of the income tax return etc., but however, he had categorically stated that he does not possess any of the returns of the firms, submitted to the income tax department.

In these circumstances, it is submitted that for conducting of the further cross-examination of the said witness and to confront him with the income tax record, an application for summoning of the record from the income tax as well as sale tax department, was required to be called.

Considering the controversy involved in the case and also keeping in view the stage of the case, where the cross-examination of Abant Kumar Jain, associate partner of the partnership firm, since dissolved, is still continuing, without prejudice to the rights of the parties, to be adjudicated on merits, the said application is allowed and learned Trial Court to summon the witnesses, as mentioned in Annexure P-6 and thereafter record the further statement of DW-2, Abant Kumar Jain.

In view of the aforesaid terms, the instant revision petition is hereby disposed of.

(ARCHANA PURI)
JUDGE

22.07.2024
Sonu

Whether speaking/reasoned : Yes

Whether reportable : Yes/No