

## **Ansal Properties and Industries Pvt. Ltd. Vs Anoop Sarin**

**Court:** High Court Of Punjab And Haryana At Chandigarh

**Date of Decision:** Sept. 8, 2010

**Acts Referred:** Civil Procedure Code, 1908 (CPC) â€” Order 11 Rule 14, Order 11 Rule 2, 151, 30  
Constitution of India, 1950 â€” Article 227

**Hon'ble Judges:** L.N. Mittal, J

**Bench:** Single Bench

**Final Decision:** Dismissed

### **Judgement**

L.N. Mittal, J.

Defendant M/s Ansal Properties & Industries Pvt. Ltd. has invoked the jurisdiction of this Court under Article 227 of the

Constitution of India to impugn order dated 15.9.2009, Annexure P/1, passed by learned Additional Civil Judge (Senior Division), Gurgaon,

thereby dismissing application moved by defendant-petitioner for recalling plaintiff-respondent for further cross-examination and for obtaining his

specimen signatures for comparison and for examining witness by the defendant to prove letter dated 30.8.1986.

2. I have heard learned Counsel for the parties and perused the case file.

3. Learned Counsel for the petitioner contended that further cross-examination of the plaintiff-respondent is required for confronting him with

agreement dated 13.8.1985 Ex. D2 and to elicit whether the said agreement had been signed by the plaintiff or not and in case of denial, his

specimen signatures are required for comparison with his disputed signatures on the said agreement. It was also contended that defendant had

revoked the agreement vide letter dated 30.8.1986 but the concerned witness examined by the defendant could not produce and prove the said

document dated 30.8.1986.

4. On the other hand, learned Counsel for the plaintiff-respondent contended that pursuant to application moved by plaintiff under Order 11 Rules

2 and 14 read with Sections 30 and 151 of the Code of Civil Procedure, the trial court had directed defendant-petitioner to produce documents

dated 13.8.1985 and 30.8.1986 but the defendant failed to produce the same by falsely stating that the documents had been produced in a court

at Delhi but Record Keeper of the said court from Delhi stated that the original documents had not been produced in that case.

5. I have carefully considered the rival contentions.

6. The trial court vide order dated 1.10.2004 directed the defendant-petitioner to produce documents dated 13.8.1985 and 30.8.1986 and some

other documents but the defendant stated that the said documents had been produced in a case in Delhi court. However, it transpired that original

documents had not been produced by the defendant in the court at Delhi. Thus, false statement was made on behalf of the defendant that

documents had been produced in the Delhi court. In addition to it, the defendant failed to produce original documents in spite of the direction by

the court. Consequently, the trial court vide order dated 20.4.2005 directed that appropriate inference in accordance with law shall be drawn

against the defendant at appropriate stage of the suit for non-production of the said documents. Since the defendant itself failed to produce the

aforesaid documents, now it does not lie in the mouth of the defendant-petitioner to recall the plaintiff for further cross-examination for confronting

him with alleged agreement dated 13.8.1985 or to produce some witness to prove document dated 30.8.1986. The defendant is playing hide and

seek not only with the plaintiff but also with the trial court. Consequently, the question of granting any relief to the defendant as sought for does not

arise.

7. In addition to the aforesaid, there is no explanation why agreement dated 13.8.1985 was not put to the plaintiff when he appeared for cross-

examination. There is also no explanation why letter dated 30.8.1986 was not produced and proved by the defendant at appropriate stage.

8. For the reasons aforesaid, it becomes manifest that no ground has been made out by the defendant-petitioner for allowing its application. The

trial court has rightly dismissed the defendant's application. There is no illegality or infirmity in the impugned order of the trial court. The defendant

which is a big company and has all the resources and legal personnel at its disposal is intentionally playing hide and seek with the court. The instant

revision is completely frivolous and devoid of merit and is accordingly dismissed.