

(2010) 09 P&H CK 0321

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 5967 of 2009

Ansal Properties and Industries
Pvt. Ltd.

APPELLANT

Vs

Anoop Sarin

RESPONDENT

Date of Decision: Sept. 8, 2010

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Order 11 Rule 14, Order 11 Rule 2, 151, 30
- Constitution of India, 1950 - 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.