
(2002) 12 DEL CK 0041

In the Delhi High Court

Case No : IA 1181 of 2000 in S. No. 226 of 2000

Bigdot Advertising and Communications Pvt. Ltd.

APPELLANT

Vs

Union of India (UOI) and Another

RESPONDENT

Date of Decision : 12-12-2002

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 13 Rule 8, Order 7 Rule 15, Order 9 Rule 12, Order 9 Rule 14, 151

Citation : (2003) 2 CivCC 672 : (2003) 102 DLT 696 : (2003) 67 DRJ 162 : (2003) 2 RCR(Civil) 487

Hon'ble Judges : Jiwan Dass Kapoor, J

Bench : Single Bench

Advocate : K.R. Chawla, for the Appellant; K.K. Sud, ASG, Rekha Palli and Neeraj Jain for defendant No. 1 and P.K. Bansal, for defendant No. 2, for the Respondent

Final Decision : Dismissed

Judgement

J.D. Kapoor, J.—This is an application under Order XI, Rules 12 & 14 read with Order VII, Rule 15, Order XII Rule 8 and Section 151 CPC for production of the documents which are alleged to be in possession of the defendants.

2. The plaintiff has filed the instant suit for recovery of Rs. 3,16,39,009.64. Out of which Rs. 1,36,01,743.20 is the principal amount. The suit amount is towards damages for the advertisement jobs carried and executed by the plaintiff on the orders and directions of officials of defendant Nos. 1 & 2. The main premise of the instant suit was the communications addressed by defendant Nos. 1 & 2 to the plaintiff. Now through this application, plaintiff is seeking direction of this court to defendant Nos. 1 and 2 to produce all orders, directions passed by the Ministers concerned at the relevant time and also by the officials of defendants 1 & 2 on the subject matter. It is admitted that some of these orders and directions passed by the officials of defendant Nos. 1 & 2 have been communicated to the plaintiff. According to the plaintiff there are number of such orders and directions

which are contained in the files of defendants and the nothings by the officials on the subject matter.

3. The object of the provisions of Order XI, Rules 12 & 14 CPC is only to compel a party to produce those documents which are either necessary for disposing fairly the suit or for saving costs. Mr. K.R. Chawla, learned counsel for the plaintiff has sought assistance from the judgment of the Supreme Court reported in Shri M.L. Sethi Vs. Shri R.P. Kapur, wherein it was held that documents sought to be discovered or produced need not be admissible in evidence in the enquiry or proceedings and if the documents would be relevant for the purpose of throwing light on the matter in controversy and every document which will throw any light on the case is a document relating to a matter in dispute in the proceedings, though it might not be admissible in evidence. In other words, a document might be inadmissible in evidence yet it may contain information which may either directly or indirectly enable the party seeking discovery either to advance his case or damage the adversary's case or which may lead to a trial of enquiry which may have either of these two consequences.

4. I am afraid the ratio of the aforesaid authority is not applicable in the given facts and circumstances of the case. The plaintiff/applicant through this suit has sought to recover principal amount as well as damages for the job carried and executed on the orders and directions of defendant Nos. 1 & 2. During this job, plaintiff had received communications, orders and directions from defendant Nos. 1 & 2. By no stretch of imagination none of the documents that have not been communicated to the plaintiff are such documents that may come within the zone of documents throwing light on the matter in controversy. There is a government procedure in arriving at certain decisions and line of hierarchy for instance in the instant case from the Section Officer, Under Secretary, Deputy Secretary, Joint Secretary and right up to Ministers participate in the deliberations. To seek production of such nothings or deliberations is not the object of provisions of Order XI, Rule 12 CPC. What is relevant and material is the ultimate decision, orders or direction which are communicated to the party and no material in the form of notes by various officials at various stages. Even if the Ministers or Secretaries make any nothings or even pass some orders or directions these are irrelevant until and unless communicated to the party concerned. To ask the defendants to produce the entire file with all such nothings and drafts for approval or suggestions of various functionaries is farthest from the mind of this court or to allow the plaintiff to have reach over these documents.

5. Almost identical proposition arose for consideration before the Division Bench of this court in H.L. Rodhey and Others Vs. Delhi Administration and Others, where nothings of various functionaries were sought to be produced to examine the process of selection of ministerial as well as executive posts and to see whether the appointments were made without satisfying the relevant rules or not. The petitioners sought for the production of various documents of different

departments containing nothings and minutes made by various officials. This court declined production of said documents and reliance was placed upon the judgment of the Supreme Court in *The State of Punjab Vs. Sodhi Sukhdev Singh*, wherein it was held that in such a situation there may be another class of documents which could claim the said privilege not by reason of their contents as such but by reason of the fact that if the said documents were disclosed they would materially affect the freedom and chan dour of expression of opinion in the determination and execution of public policies and such class of documents in the opinion of the Supreme Court included notes and minutes made by the respective officers on the relevant files opinions expressed, or reports made, and gist of official decisions reached in the course of the determination of the said questions of policy.

6. The plaintiff/applicant also seeks production of such class of documents which is impermissible for the reasons that these are not only likely to hamper but also impair the working of the Government and its efficient administration in coming to the policy decisions or other decisions. It would subvert the process of obtaining independent and fearless views of various functionaries involved in the hierarchy responsible for taking the ultimate decision.

7. In view of the foregoing reasons, I do not find any merit in the application which is highly misconceived, frivolous ,vague and unspecific and is hereby dismissed.

S.No. 226/2000.

8. Renotify on 2nd April, 2003 for framing of issues.