
(2006) 04 AHC CK 0017
In the Allahabad High Court
Case No : Civil Revision No. 1 of 2005

Hari Mohan Das Tandon and Others	APPELLANT
Vs	
U.P. Export Corporation Ltd.	RESPONDENT

Date of Decision : 27-04-2006

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 8 Rule 1(2), Order 8 Rule 1(5)

Citation : (2006) 4 AWC 3373 : (2006) 2 RD 58

Hon'ble Judges : Poonam Srivastava, J

Bench : Single Bench

Advocate : Vishnu Gupta, P.P. Srivastava, Tulika Prakash and Nikhil Agrawal, for the Appellant; Pradeep Kumar, for the Respondent

Judgement

Poonam Srivastava, J.—Heard Sri P.P. Srivastava, senior advocate assisted by Smt. Tulika Prakash and Sri Nikhil Agrawal, learned Counsel for the plaintiff-revisionist and counsel for the U. P. Export Corporation Ltd.

2. The plaintiff-revisionist instituted a suit for eviction vide Suit No. 12 of 1997 before the learned District Judge, Allahabad. The defendant M/s. U.P. Export Corporation Ltd. was the tenant of a portion of building No. 142/32 (old No. 24), Mahatma Gandhi Marg, Allahabad at the rate of Rs. 6,000 per month besides taxes. The tenancy was terminated vide notice dated 1.5.1997 served on the defendant on 7.5.1997. The U.P. Export Corporation filed their written statement. The plaintiff Hari Mohan Das Tandon was examined as P.W. 1 on 18.7.2001. The plaintiffs evidence was closed thereafter. The defendant examined Amarjeet Singh as D.W. 1 on 30.5.2002 and Rajendra Kumar Chug as D.W. 2 on 6.7.2002. Subsequently, on 27.8.2002 an application was filed by the defendant for admitting the authority letter dated 25.6.1997 along with an application supported by an affidavit. An objection was filed on behalf of the plaintiff that the authority letter is submitted only to fill up the lacuna. The Court allowed the application permitting the authority letter to be kept on record on payment of cost of Rs. 100. The question regarding genuineness of the said letter was to be

examined at a later date. The order accepting the letter on payment of cost of Rs. 100 dated 11.9.2002 is impugned in the present revision.

3. The argument on behalf of the revisionists is that the document which has been taken on record, cannot be done after filing of the written statement and more so when the evidence was closed. Learned Counsel for the plaintiff has emphatically stated that it was the duty of the Court to have examined as to whether the letter of authorisation was forged one or actual given by the concerned authority and only after coming to the conclusion that the letter of authorization bears signature of Rajeev Kumar, Managing Director, U.P. Export Corporation Ltd. only then it could be accepted. Order VIII, Rule 1 (2), C.P.C. provides that any document whether or not in possession of the defendant, shall be entered and annexed along with written statement in support of his evidence. It is also argued that unamended C.P.C. also provided that the documentary evidence could be produced at a subsequent stage provided good cause to the satisfaction of the Court was shown for non-production thereof on the previous occasion. Counsel for revisionists stated that the court below though accepted the fact that the letter was filed at a belated stage in spite of it, instead of refusing to take the document on record, accepted it and.-x, therefore, committed a gross error of law.

4. I have heard the respective counsels at length. It is correct that the CPC has made it mandatory to annex the documents with the pleadings at the first instance. However, Order VIII, Rule 1(5) provides :

(5) A document which ought to be entered in the list referred to in Sub-rule (2), and which is not so entered, shall not, without the leave of the Court, be received in evidence on behalf of the defendant at the hearing of the suit.

5. In the Instant case, the leave was sought from the Court. The application and affidavit has been brought on record by counsel for the revisionists himself and the Court was of the view that since there is specific allegation that the letter of authorization Is forged one, that can be examined only after It Is taken on record. The Court exercised its discretion and granted leave, therefore, it cannot be said that the Court exercised its Jurisdiction which was not vested in him. I am not Inclined to Interfere in this revision at this stage. The revision Is accordingly dismissed.

6. Since the suit is pending since the year 1997, the court below is directed to decide the questions and issues expeditiously, preferably within a period of four months from the date, a certified copy of this order is produced before him. It is made clear that no undue adjournment shall be granted to either parties unless and until compelling circumstances arise (to do so and that too after recording reasons in writing.