

(2019) 11 DEL CK 0516

In the Delhi High Court

Case No : Civil Revision Prtition No. 265 Of 2019

Nbcc (India) Ltd

APPELLANT

Vs

M/S Th. Jadumani Singh

RESPONDENT

Date of Decision : 20-11-2019

Acts Referred:

Code Of Civil Procedure, 1908 — Order 11, Order 11 Rule 12, Order 11 Rule 14

Citation : (2019) 11 DEL CK 0516

Hon'ble Judges : Sanjeev Sachdeva, J

Bench : Single Bench

Advocate : Mohit Arora

Final Decision : Disposed Of

Judgement

Sanjeev Sachdeva, J

CM APPL.50059/2019 (exemption)

Exemption is allowed subject to all just exceptions.

C.R.P. 265/2019 & CM APPL.50058/2019 (stay), CM APPL.50060/2019 (stay)

1. Petitioner impugns order dated 17.07.2019, whereby, the application of the respondent under Order 11 Rule 12 and 14 CPC has been allowed and respondent has been directed to produce the documents.

2. Respondent had filed the subject suit for recovery of Rs.36,40,000/- being the balance amount payable to the respondent for execution of the contract.

3. One of the issues raised by the petitioner in its defence was that they had imposed liquidated damages and the amount was not payable. After the written statement was filed, subject application under Order 11 Rule 12 and 14 CPC was filed seeking the petitioner to discover the following documents:-

S.No.

Documents

1.

Details of Extension of time given during the course of contract either provisionally or otherwise at different times by the defendant to the plaintiff

2.

Copy of EOT submitted by Plaintiff on 24.05.2010 and 02.04.2013 which was resubmitted on 22.06.2013

3.

Copy of final bill submitted by Plaintiff

4.

Notice of show cause issued by the Central Government to the defendant for delay in construction of 7 Nos. Type VII houses along with boundary wall for 7 houses for redevelopment of Netaji (part) & Moti Bagh (East), New Delhi

5.

Order of Central Government imposing cost on defendant for delay in completing 7 Nos. Type VII houses along with boundary wall for 7 houses for redevelopment of Netaji (part) & Moti Bagh (East), New Delhi

6.

Copy of all communications in between Plaintiff and defendant during the course of contract

7.

Documents and date as to when final allotment of 7 Nos. Type VII houses along with boundary wall for 7 houses for re-development of Netaji (part) & Moti Bagh (East), New Delhi was made to actual allottees.

4. Trial Court has allowed the said application holding that the documents, production of which is sought, are necessary arriving at a just decision of the case.

5. It is not the case of the petitioner that the documents, production of which is sought, are not necessary for determining the real question in controversy.

6. Petitioner is a public sector undertaking and the documents, production of which is sought, are part of official communication and dealings.

7. Learned counsel for the petitioner candidly admits that in case an application under Right to Information Act were filed by the respondent, the petitioner Corporation would be obliged to supply copies of the documents, if available in their record.

8. Perusal of the documents, production of which is sought, shows that if such documents exist and are produced by the petitioner, substantial dispute between the parties would be resolved and it would cut short the trail and there is also a possibility that the case would not even be required to be set down for trial. The dispute between the parties is the contractual dispute and a large part of it would be resolved based on the correspondences between the parties and the documents with the petitioner pertaining to the said contract.

9. Purpose of Order 11 CPC is to facilitate the Trial Court in expeditious disposal of the proceedings. If any order reduces the disputed questions arising in the suit and does away with the requirement of a full-fledged trial, such an order would certainly facilitate the Court in expeditious disposal of the suit.

10. In view of the above, I find no infirmity in the above order directing the petitioner to produce the documents sought for in the said application.

11. Accordingly, the petition is disposed of confirming the directions of the Trial Court directing the petitioner to produce the documents. However, in case any document is not available with the petitioner, petitioner shall file an affidavit that such documents are not available in their record.

12. Order Dasti under the signatures of the Court Master.