

(2012) 07 P&H CK 0312
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 6580 of 2001

The Tata Iron and Steel Co. Ltd. and Others	APPELLANT
Vs	
Prop. Ajit Cotton Ginning Pressing Dall and Steel Rolling Mills	RESPONDENT

Date of Decision : 11-07-2012

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 10 Rule 1, Order 11 Rule 11, Order 11 Rule 12, Order 11 Rule 13, Order 11 Rule 14

Citation : (2013) 1 RCR(Civil) 506

Hon'ble Judges : A.N. Jindal, J

Bench : Single Bench

Advocate : Anupam Gupta, with Mr. Sharad Chaudhary, for the Appellant; Arun Jain , with Mr. Vikas Mohan Gupta, for the Respondent

Final Decision : Allowed

Judgement

A.N. Jindal, J.—Challenge in this petition is to the order dated 31.08.2001 passed by the Additional Civil Judge (Senior Division), Amloh, striking off the defence of the defendants-petitioners (hereinafter referred as "the petitioners"). Factual background of the case is that the plaintiff-respondent (hereinafter referred as the respondent) claims itself to be a conversion agent and trader of the petitioner No. 1 Company and as such, filed a suit for rendition of accounts and mandatory injunction direction the petitioners to settle all their claims as committed and agreed by the petitioners. This suit was filed by the respondent on 22.07.1998 and the written statement was filed by the defendants on 19.12.1998. Thereafter, the respondent filed an application before the trial Court on 15.03.1999 under Order 11 Rule 14 CPC to issue a direction to the petitioners to produce some documents, in order to enable it to file replication. The details of the documents demanded and reply submitted by the petitioners to the said application are as follows:-

DOCUMENTS DEMANDED

(1) Commitment register (Account books maintained by the defendants) showing

the statement of account between the parties duly confirmed by the plaintiff for the period March, 1989 up to date.

(2) Copy of statement of commitment party-wise with covering/forwarded letters (Statement of Account) forwarded to the Deputy Director of sale New Delhi and Director of Sales Marketing Calcutta from March, 1989 up to date.

(3) Copy of confirmation of commitment figure received by the defendant with the approval of Deputy Directors Sales and Director of Sales Marketing from march, 1989 up to date, received by the Jalandhar Office.

(4) Copy of Rate tenders issued by the defendants from March 1992 to 31.03.1993.

(5) Copy of Best rate received by the defendant company for each of the item of the tender for the period March, 1992 to 31.03.1993.

(6) copy of Best rate received by Jalandhar Office referred to above and forwarded by Jalandhar office to Deputy Director of Sales, New Delhi and Director of Sales Marketing Calcutta.

(7) Copy of approval of best rate tenders as referred to above received by Jalandhar Office from Deputy Director of Sales, New Delhi and Director of Sales, Marketing Calcutta.

(8) Copy of letter No. S/VP/TP/25 dated 20.11.1992 duly received by Jalandhar Office from the Office Vice President/Chairman of the defendant company.

(10) Copy of offers for the sale of raw material and finished goods issued by Jalandhar Office to different types of customers in connections with semies of different types and finished goods to Traders, Re-Rollers conversion agents for the period March, 1992 to 31.03.1996.

(11) Copy of offers issued by the defendant office at Jalandhar for sale of finished goods, raw material from the stockyard at Ludhiana goods, raw material from the stockyard at Ludhiana and Jalandhar to Traders, Re-Rollers and conversion agents from the period from March 1992 to March, 1996.

(12) Copies of offers from Offer No. BDM/OLX/92/00100 to B.D.M./OLX/92/00200.

(13) Copy of delivery orders issued and invoices raised by Jalandhar Office in regard to offers referred to above.

(14) Copies of offers for raw material for Spl. conversion to different conversion agents under Jalandhar Branch & Copies of IP Statement month wise submitted by conversion Agents to Jalandhar Office from March 1989 to March 1995.

(15) Copies of Dispatch & Receipt register maintained by the defendant office for the period March 1989 up to date.

(16) Copies of letters dispatched & letters received as referred to above maintained by Jalandhar Office for the period March 1992 up to date.

(17) Copies of Serial No. letter file (letters dispatched & letters received) maintained by defendant company for the period from March 1992 up to date.

(18) Copies of Serial No. (Delivery Orders) Serial file maintained by Jalandhar Office for the period March 1992 to March 1996.

(19) Copy of detail of office note & copy of direction letters received by Jalandhar Office from Higher Authorities on the basis of which, Jalandhar Office directed Mr. Subhash of B.D. Aggarwal & Sons, the consignment Agent at Mandi Gobindgarh of defendant company, to give credit to the plaintiff for Rs. 20.20 lacs and afterwards Rs. 19.20 lacs.

(20) Details of Office note or minutes of the meeting on the basis of which letters No. S/VP/25 dated 20.11.1992 was issued and started issuing offers by branches of the company as per Best Spot tenders price approved by the defendants & its officers.

(21) (a) Copies of offer Letter No. 3DM/OXL/94-43 dated 16.06.1994.

(b) Offer letter No. BDM/OLX/94-121 dated 07.02.1995.

(c) Offer letter No. BDM/OLX/95/93 dated 17.04.1995.

(d) Offer letter No. BDM/OLX/95/49 dated 20.11.1995.

(e) Offer letter No. BDM/OLX/94-42 dated 09.06.1994.

(f) Copies of rate tenders issued by Tisco from 10.11.1992 to 31.12.1992 received by defendant company.

(g) Copy of receipt No. 165 and 169 dated 22.02.1994 and 23.02.1994.

REPLY SUBMITTED BY THE PETITIONERS

(i) The defendant company is not in possession of any commitment register, as such, the same cannot be produced. The plaintiff has mentioned account books maintained by the defendant showing the statement of account between the parties. The statement of account as per the books of accounts of the defendant company is attached herewith.

(ii) In reply to the demand listed at Sr. No. (ii) in the application, it is submitted that the defendant is not maintaining any statement of commitment in respect of its customers but the defendant company is maintaining true and faithful accounts in respect of all the conversion agents send other customers purchasing goods from the defendant company. The record is so voluminous that it cannot be produced to pin point particular parties for production of their statement of accounts and that if the same is found to be relevant by this Hon"ble Court.

(iii) In reply to item No. (iii) it may be me mentioned that no copy of any

confirmation of commitment figures is available in the office of defendant company because no such document exists in the office of the company.

(iv) In reply to item No. (iv), it may be submitted that copies of any rate tenders alleged to have been issued by the defendant company from March 1992 to 31.03.1993 are not available in any office of the company.

(v) In reply to item No. (v), no document as listed in this item is available or exists with the defendant company.

(vi) In reply to item No. (vi), no such document exists.

(vii) In reply to item No. (vii), it is submitted that no such document exists in the office of the defendant company.

(viii) In reply to item No. (viii), it is submitted that letter as mentioned in this item is not available in the Jalandhar office of the defendant company.

(x) In reply to item No. (x), it may be submitted that no copy of the offers are available in the Jalandhar office of the company for the period in question.

(xi). In reply to item No. (xi), document asked for is not available in the Jalandhar office of the company.

(xii) In reply to item No. (xii), it may be mentioned that the document asked for is not available in the Jalandhar office of the company.

(xiii) Copies of the delivery orders and invoices as called for under this item, are available in the Jalandhar office of the company. The delivery orders and invoices asked for may be about 5000 in number for each financial year. These delivery orders and invoices are available in the computerized data and any item asked for with specific identification, can be produced after obtaining a print out from the computer.

(xiv) In reply of item No. (xiv), it may be mentioned that documents as asked for are not available in the Jalandhar office of the company.

(xv) In reply to item No. (xv), it may be mentioned that the documents asked for are not available in the Jalandhar office of the company.

(xvi) In reply to item No. (xvi), it may be submitted that the copies of the letter dispatched from Jalandhar office are available only from January 1996 onwards and not prior thereto. The number of such letters is approximately 2000 for each financial year. Specific letter, if asked for can be produced by the defendants otherwise the record become voluminous. As regards letters received, the same are not maintained in a single file but are placed on different files after receipt. Specific letters if asked for can be produced after tracing out.

(xvii) In respect of item No. (xvii), the defendants are at a loss to understand the nature of the document sought to be produced.

(xviii) In reply to item No. (xviii), it may be mentioned that the documents available have been mentioned in item No. (x) of this reply.

(xix) Regarding item No. (xix), the documents asked for neither exists nor are available in the Jalandhar office of the company.

(xx) Documents asked for in item No. (xx) are neither existed nor are available in the Jalandhar office of the company.

(xxi) Documents mentioned against item No. (a) to (g) are not available in the Jalandhar office of the company.

2. From the aforesaid reply, it is apparent that the petitioners had made it clear that some of the documents are voluminous in nature, which would be ready to examine by the respondent in the office of the petitioners and some of the documents are not in possession of the Jalandhar office of the company. However, they had produced all the remaining documents, which were in their possession. It is also apparent that after the petitioners brought some documents in the Court, then neither counsel for the respondent nor respondent itself came present to examine those documents. Then, in the evening, the case was adjourned. Thus, the trial Court passed the following order on 01.12.1999:-

Present: Counsel for the parties.

Counsel for the plaintiff moved an application for striking the defence of defendants under Order 11 Rule 21 CPC. Notice of the same has been given to the defendants. Now to come up on 06.01.2000 for reply.

Thereafter, on 06.01.2000, the trial Court passed the following order:-

Present: Counsel for the parties.

Reply has been filed. Documents have not been filed by the defendants. As such, adverse inference shall be drawn against the defendant and the plaintiff is directed to file replication for 23.02.2000.

3. On 23.02.2000, the plaintiff did not file replication. Case was adjourned to 11.04.2000. On 11.04.2000, the plaintiff-respondent apprised the Court that he had challenged the order dated 06.01.2000 before the Hon"ble High Court. Thus, the case was adjourned to 04.05.2000. This Court, in CWP No. 1707 of 2000, passed the following order on 02.05.2000:-

Shri S.C. Nagpal, Advocate, for the petitioner.

Plaintiffs prayer that the defence of the defendants be struck off under Order 11 Rule 21 CPC appears to have been misconceived.

Faced with this position, Shri S.C. Nagpal, Advocate, withdraws this prayer which the plaintiff has made before the trial Court. He, however, qualifies that he should be allowed to withdraw this prayer provided defendant-respondent No. 1 complies with the order of the Court for production of documents passed on

24.08.1999 and repeated on 27.09.1999 and 03.11.1999.

Now the situation boils down to this; that defendant-respondent No. 1 shall produce all the documents in their possession and power as stated in the application dated 15.03.1999 so that the plaintiff is able to put in replication.

Disposed off with the above said observations. Learned trial Court will fix some date calling upon the defendants-respondents to secure the compliance of the prayer of the plaintiff-petitioner made in application for the production of documents dated 15.03.1999

4. Though the petitioners had already produced some documents on the record, yet in compliance of the order dated 02.05.2000 passed by this Court, they produced certain documents which were in their possession. However, the trial Court while sitting over the application dated 05.09.2000, struck off the defence of the petitioners for non production of the documents.

5. The following questions arise for determination of the case:-

(i) Whether the application for production of documents was an application for answering the interrogatories or for discovery or inspection of documents, as provided under order 11 Rule 12 CPC, to which Order 11 Rule 21 is attracted and which was amenable to appeal and not revision or, whether this order passed under Order 11 Rule 14 CPC and was amenable to appeal?

(ii) Whether in the light of the order dated 02.05.2000 passed by this Court, the defence of the defendants-petitioners could be struck off?

(iii) Whether it was a fit case for striking off the defence?

6. Both the parties were imposed a duty for production of documents. Obligation to produce the documents by the plaintiff is governed by Rule 14 of Order 7 CPC, which reads as under:-

14. Production of documents on which plaintiff sues or relies-

(i) Where a plaintiff sues upon a document or relies upon document in his possession or power in support of his claim, he shall enter such documents in a list, and shall produce it in Court when the plaint is presented by him and shall, at the same time deliver the document and a copy thereof, to be filed with the plaint.

(ii) Where any such document is not in the possession or power of the plaintiff, he shall, where possible, state in whose possession or power it is.

(iii) A document which ought to be produced in Court by the plaintiff when the plaint is presented, or to be entered in the list to be added or annexed to the plaint but is not produced or entered accordingly, shall not without the leave of the Court, be received in evidence on his behalf at the hearing of the suit.

(iv) Nothing in this rule shall apply to document produced for the cross-

examination of the plaintiff's witnesses, or handed over to a witness merely to refresh his memory.

7. The obligation to produce documents by the defendant along with written statement, is governed by Rule 1-A of Order 8 CPC, which is reproduced as under:-

1-A Duty of defendant to produce documents upon which relief is claimed or relied upon by him-(1) Where the defendant bases his defence upon a document or relies upon any document in his possession or power, in support of his defence or claim for set-off or counter-claim, he shall enter such document in a list, and shall produce it in Court when the written statement is presented by him and shall, at the same time, deliver the document and a copy thereof, to be filed with the written statement.

(2) Where any such document is not in the possession or power of the defendant, he shall, wherever possible, state in whose possession or power it is.

(3) A document which ought to be produced in Court by the defendant under this rule, but, is not so produced shall not, without the leave of the Court, be received in evidence on his behalf at the hearing of the suit.

(4) Nothing in this rule shall apply to documents-

(a) Produced for the cross-examination of the plaintiff's witnesses, or

(b) handed over to a witness merely to refresh his memory.

8. Under Order 8 Rule 9 CPC, no mandatory right was given to the plaintiff to file replication, but it was purely the discussions of the Court to permit the plaintiff to file replication.

9. The CPC being a Procedural Guide heading towards conclusion of the trial, considered the first date of hearing (after the parties conclude their pleadings) as the date to ascertain the allegations in the pleadings and direct the parties to make admission or denial. This procedure has been prescribed under Order 10 Rule 1 CPC, which is reproduced as under:-

1. Ascertainment whether allegations in pleadings are admitted or denied - At the first hearing of the suit the Court shall ascertain from each party or his pleader whether he admits or denies such allegations of fact as are made in the plaint or written statement (if any) of the opposite party, and as are not expressly or by necessary implication admitted or denied by the party against whom they are made. The Court shall record such admissions and denials.

10. Before the evidence commences, in order to narrow down the controversy and shorten the volumes of evidence and save the precious time of the Courts, the CPC has enacted Order 11 for discovery of interrogatories and discovery of documents, which is reproduced as under:-

12. Application for discovery of documents-Any party may, without filing any

affidavit, apply to the Court for an order directing any other party to any suit to make discovery on oath of the documents which are or have been in his possession or power, relating to any matter in question therein. On the hearing of such application the Court may either refuse or adjourn the same, if satisfied that such discovery is not necessary, or not necessary at that stage of the suit, or make such order, either generally or limited to certain classes of documents, as may, in its discretion, be thought fit;

Provided that discovery shall not be ordered when and so far as the Court shall be of opinion that it is not necessary either for disposing fairly of the suit or for saving costs.

11. Rule 13 of Order 11 provides that a party, against whom the documents are sought to be produced, shall supply the documents and if it objects to produce, then it shall do so in Form No. 5 in Appendix C, with such variations as circumstances may require.

12. To the contrary, Rule 14 is a general rule for providing power to the Court to direct a party to produce the documents in its possession or power relating to any matter in question in such suit. It implies that at the time of directing the parties to produce such documents, the Court has to make out; (i) if such documents relates to the matter into controversy in the suit or not, (ii) the documents) if produced would assist the Court in the administration of justice, (iii) save costs. In other words, this Rule also refers that after the pleadings are completed, then the Court would find out, as to whether the documents sought by the party are relevant to the questions involved into controversy or not. After satisfying itself about the relevancy, relativity or essentiality of production of such documents, the Court could direct the other party to produce the same. In any case, the words "at any time during the pendency of the suit" could be stretched to direct a party to produce certain documents in its possession or power, but the mandatory condition precedent to be specified for production of the document is that it must be relevant and relate to the lis that suit.

13. Similarly, Rule 15 of this Order also empowers the Court to issue a direction to the party to produce the documents for inspection on or before the settlement of issues. However, these two provisions of Order 11 Rule 14 and 15 cannot be analogous to Rule 12 CPC, which lays down quite a different procedure and inscribes different format for answering about the interrogatories and discovery of documents. As such, any order passed under Order 11 Rules 14 and 15 CPC does not attract the penalty, as provided under Order 11 Rule 21 CPC and is also not amenable to appeal, as provided under Order 43 Rule (f) of the CPC. Therefore, the objection raised by counsel for the petitioners that the order is appealable and not revisionable cannot be sustained.

14. This proposition also became subject of controversy in a case titled as Premraj Bheoraj Agarwal v. Nathumal Rupchand Marwadi, AIR 1936 Nagpur 130, wherein it has been observed that CPC provides the penalty for non-compliance

of such a direction under Order 11 Rule 21 CPC. However, Order 11 Rule 14 CPC does not provide for such a penalty. Therefore, it was held that the Court would have no jurisdiction to proceed under Order 11 Rule 21 CPC for violation of any direction under Order 11 Rule 14 CPC. Consequently, the Court set aside the dismissal of the suit.

15. Again in case Archdiocese of Bhopal Regd. Society Vs. Hasan Kabir and Others, , the Hon''ble Madhya Pradesh High Court has observed as under:-

11. In Indro Nath Banerjee Vs. Prom Sukh Chunder and Others, Shankar Deoba Patil and Another Vs. Ganpatilal Shiodayal Chamedia, Koduri Krishnarao v. State of Andhra, now Andhra Pradesh represented by Koduri Krishnarao Vs. State of Andhra Pradesh, Hyderabad, Chander Bhan Singh Vs. Lallu Singh and another Ram Kishun Lal and Others Vs. Abu Abdullah Syed Hussain Imam, and in Devkaran Bholaram Vs. Sangidas Jesiram, , it has been laid down that in the absence of an order under Rules 11, 12 or 18 and the disobedience thereof by the party against whom the order is made, the Court cannot act under Rule 21 Order 11 Civil Procedure Code.

12. An order for production of documents under Rule 14 of Order 11 CPC is not one of the orders mentioned in Rule 21 of Order 11 Civil Procedure Code. A disobedience of an order for production under Rule 14 of Order 11 CPC would not empower the Court to take action under Rule 21 of Order 11 CPC as has been laid down in G. Kishan Rao v. B. Narayan Reddy, ILR (1970) A.P. 1203, M/s. Gur Prasad Shyam Babu and others Vs. State Bank of India and another, The Lyalpur Sugar Mills and Co. and Another Vs. The Ram Chandra Gur Sahai Cotton Mills and Co., (Sahu) Munna Lal Vs. Tara and Another Subbayyar Vs. M.L.M. Ramanathan Chettiar, and in Shri Baba Shiva Sambhu and another Vs. Raj Mohan Deb Nath and others

16. Hon''ble Madhya Pradesh High, while discussing the aforesaid judgments in Archdiocese of Bhopal Regd. Society''s case (supra), further observed as under:-

15. In view of above, we hold that due to noncompliance of provision under Order 11 Rule 14 of Civil Procedure Code, suit cannot be dismissed under Order 11 Rule 21 Civil Procedure Code. It can be dismissed only in the exigencies such as due to non-compliance of orders of interrogatories, discovery or inspection as envisaged under Order 11 Rule 21 Civil Procedure Code.

17. Rule 14 of Order 11 CPC was also discussed in case Bhagwani Devi Mohata Hospital Vs. A.D.J. and Another, , wherein it was observed that the Court should not be harsh enough to take such a serious view with regard to striking of the defence in case of non production of documents nor adverse inference could be drawn.

It has been further observed as under:-

The Court should always be cautious in passing such type of orders like production of documents by any of the parties because of the reason that in

case, the order is not complied with, serious consequences of drawing adverse inference against the defaulting party likely to follow easily. In such situation despite the fact that the other party, even if wants to produce the documents, cannot produce which may result into dismissal of the suit in case the plaintiff fails to produce the documents and decree against the defendant, in case the defendant fails to produce the documents.

18. As a matter of fact, the order for production of documents needs to be passed only after the Court, on application of mind, reaches to a conclusion that the documents were relevant for determination of any controversy in the suit and there was willful disobedience on the other side. However, such order could not be passed in a routine and casual manner without bothering the consequences therefrom. Similar observations were made by this Court in case *Ms. Monica Bibli Sood Vs. Dr. Karan J. Kumar and Others*, wherein it has been held as under:-

6. The primary object of the provisions of Order 11 Rules 12 to 20 is to save costs and to assist Courts in the administration of justice. The Court is required to apply its mind carefully before making an order granting discovery and inspection. The Court is not to pass such order as a matter of routine and as one of no serious consequences. The discretion must be exercised judicially to further the primary object of the provisions and care must be taken that they are not used with an ulterior motive. It was so held by this Court in *Lajpat Rai Vs. Tej Bhan and Others*, 14 as follows:

3. Therefore, it is clear that the intention of the legislature in enacting these provisions of law to give discovery or inspection of certain documents if such an order is considered necessary in the interests of fair disposal of the suit or to reduce litigation expenses. The primary object of these provisions is to save costs and to assist Courts in the administration of justice. It necessarily follows that the Court concerned must judicially exercise its discretion keeping the object of these provisions of law in view.

An order granting discovery and inspection may in some cases result in serious prejudice and injury to the party that has to comply with it and, therefore, it is necessary that the Court should apply its mind carefully before making the order. It is not the intention of the legislature that such an order should be made as a matter of routine and as one of no serious consequences.

The Courts, when moved under these provisions of law, must first decide whether the documents of which discovery or inspection is sought relate to any question in the suit and then decide if it is necessary to grant the application at that stage of the suit in the interests of its fair disposal or to save litigation expenses.

The discretion vested in Courts must be exercised judicially to further the primary object of these provisions and care must be taken that they are not used with an ulterior motive. Obviously, the decision rests on the circumstances of each case and it is not possible to lay any hard and fast rule in this matter.

7. Keeping in view the said principle of law it need to be examined whether the document in question relate to any question in the suit and whether production of such document would be in furtherance of fair disposal of the suit or to save litigation expenses.

19. The Hon''ble Rajasthan High Court in cas Ramesh Chandra Vs. Sarpanch, has held that the Court cannot strike off the defence or dismiss the suit unless, it finds that disobedience or default was willful.

20. In the instance case, the trial Court has not recorded any finding that such documents are necessary for determination of the question into controversy and are related to the matter in dispute. From perusal of the record, it has been revealed that the petitioners never committed any default in production of the documents, which were in their possession or power. The documents, which were in their possession, were produced by them and some of the documents were again produced pursuant to the orders passed by this Court. The petitioners also tendered huge voluminous record for examination by the plaintiff, but the opposite counsel did not turn up to examine those documents.

21. Therefore, in these circumstances, the petitioners cannot be held to be guilty of willful default or disobedience. The Hon''ble Supreme Court has also fallen heavily by discouraging striking off the defence even while exercising powers under Order 11 Rule 21 CPC. The Hon''ble supreme Court in case Babbar Sewing Machine Company Vs. Trilok Nath Mahajan, , has held to the following effect:-

An order striking out the defence under Order 11 Rule 21 should be made unless there has been obstinacy or contumacy on the part of the defendant or willful attempt to disregard the order of the Court to produce the documents. Even assuming that in certain circumstances the provisions of Order XI Rule 21 must be strictly enforced, it does not follow that a suit can be lightly thrown out or a defence struck out without adequate reasons. The test laid down is whether the default is wilful. In the case of a plaintiff, it entails in the dismissal of the suit and, therefore, an order for dismissal ought not be made under Order XI Rule 21, unless the court is satisfied that the plaintiff was willfully withholding information refusing to answer interrogatories or by withholding the documents which are ought to discover. In such an event the plaintiff must take the consequence of having his claim dismissed due to his default i.e. by suppression of information which he was bound to give. In the case of the defendant, he is visited with the penalty that his defence is liable to be struck out and to be placed in the same position as if he had not defended the suit. The power for dismissal of a suit or striking out of the defence under Order XI Rule 21 should be exercised only where the defaulting party fails to attend the hearing or is guilty of prolonged or inordinate and inexcusable delay which may cause substantial or serious prejudice to the opposite party.

22. No doubt, the Hon''ble Madhya Pradesh High Court in case Indore Development Authority, Indore Vs. Satyapal Anand and Another, , observed that

the party who fails to answer the interrogatories or to produce the document for inspection, has to be prevented, otherwise such party would be seeking adjournment after adjournment and would be avoiding to answer the interrogatories for making the discovery of the document sought.

23. But, in this case, it is not a private defendant, but a Corporate body having no special interest in any of the documents and it never showed any negligence or acted contemptuously while producing these documents. Further, as discussed by the trial Court, the case was not fixed for supplying the interrogatories and discovery of the document, as provided under Order 11 Rule 12 CPC but it was dealing with the application under Order 11 Rule 14 CPC.

24. While deciding the other questions in the case, it may be observed that on the application moved by the respondent-plaintiff for striking off the defence, the Court did not grant such relief vide order dated 06.01.2000. Again the said order was challenged before this Court in CWP No. 1707 of 2000, wherein it was observed that the application was misconceived and in view of that observation, Shri S.C. Nagpal, Advocate, counsel for the respondent had withdrawn the said prayer. Thereafter, the aforesaid writ petition was disposed of with a direction to the defendants to produce the documents as mentioned in the application dated 15.03.1999.

25. In view of the specific withdrawal of the prayer and in the absence of any fresh application for striking off the defence, the trial Court appears to have committed mistake while striking off the defence of the petitioners for non-production of the documents. In any case, once this Court has observed that the prayer for striking off the defence was misconceived, the trial Court should not have passed such orders, as passed by it. Thus, the impugned order being perverse could be interfered with by this Court in exercise of its revisional jurisdiction.

26. Resultantly, this petition is accepted; the impugned order is set aside and the respondent is directed to file replication within one week of the date fixed in the case for the said purpose. Since the present suit was filed in the year 1998 and the same is at rudimentary stage, therefore, the trial Court is directed to decide the case as expeditiously as possible preferably within one year. Parties are directed to appear before the trial Court on 31.07.2012. Copy of this judgment be sent to Hon"ble the Acting Chief Justice for onward circulation of the same amongst the Judicial Officers posted in the States of Punjab, Haryana and Union Territory, Chandigarh, for their enlightenment about the developments of law and guidance.