

**CR-589-2025 (O&M)**

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**IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH**

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CR-589-2025 (O&M)  
Reserved on : 01.07.2025  
Date of decision: 11.07.2025

Maina Devi (since deceased) through LRs

... Petitioners

Vs.

Mohinder Kumar Jain and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL**

Present:- Mr. Ashwani Kumar Chopra, Senior Advocate (through VC)  
with Mr. Brahmjot Singh Nahar, Advocate  
Ms. Ridhima Khindria, Advocate for the petitioner.

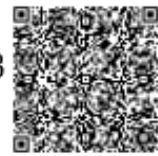
Mr. Ashish Aggarwal, Senior Advocate with  
Mr. Anmol Rattan S. Dhillon, Advocate  
for respondents No. 1 and 2.

Service of respondents No.3 and 4 was ordered to be  
dispensed with vide order dated 28.03.2025.

Mr. Amit Jhanji, Senior Advocate with  
Ms. Priyanka Kansal, Advocate  
for respondents No. 5(a) to 5 (d).

**SUVIR SEHGAL J.**

1. Instant revision petition has been filed assailing order dated 03.01.2025, Annexure P-1, whereby an application filed by petitioner/plaintiff under Order 11 Rule 14 CPC has been disposed of

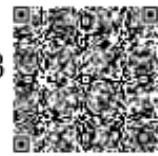


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by learned Civil Judge, Junior Division, Chandigarh by debarring the plaintiff from bringing on record some of the documents mentioned in the application without prior permission of the court.

2. Learned senior counsel for the petitioner has argued that the plaintiff filed a suit, Annexure P-2, for declaration to the effect that she is one of the directors of the company M/s Gurpadam Investment and Finance Pvt Ltd. (for short, 'the company'); for declaring transfer of shares belonging to her and her husband in favour of defendant No.2, as illegal; immediate holding of special general meeting of the equity shareholders of the company; and for setting aside the sale of a residential house bearing no.124 in Sector 8A, to defendant no.5, besides seeking mandatory injunction. He states that before framing of the issues, an application dated 29.09.2024, Annexure P-5, under Order 11, Rule 14, CPC, has been moved by the plaintiff for directing defendants No.3 and 4 to produce eleven documents mentioned in the application. He states that application was contested by filing a reply, Annexure P-6 and statement of respondent No.1/defendant No.4 was recorded by the trial Court on 24.12.2024, whereby he supplied three documents and stated that the remaining are not in his "active possession". By making a reference to order dated 24.12.2024, Annexure P-7, passed by Trial Court, counsel asserts that a direction was passed to defendant No.4 to supply the



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remaining documents as mentioned in the application and on his failure to do so, the trial Court has wrongly disposed of the application vide impugned order and erred in penalizing the plaintiff. Counsel asserts that defendant no.4 has not denied that he does not possess the documents. He is bound to produce them and on default, his defence should have been struck off.

3. Per contra, learned senior counsel representing respondents No.1 and 2-defendants No. 4 and 3 and respondent No. 5/defendant No. 5 have urged that direction to produce the documents could not have been passed by the trial Court without application of mind and without reaching at a conclusion that the documents were relevant for determination of controversy in the suit. Supporting the impugned order, it has been contended that on account of non-compliance of a direction given under Order 11, Rule 14 CPC, no penalty can be imposed on the defaulting party as the provision is merely procedural and has been introduced to regulate the trial of the suit. Reliance has been placed by them upon the *The Tata Iron and Steel Company Limited and others Vs. Prop. Ajit Cotton, Ginning, Pressing Dall & Steel Rolling Mills, 2013 (1) RCR (Civil) 506* and *Punjab Beverages Pvt. Ltd. Vs. Col. A.S. Judge, 2009 (4) RCR (Civil) 895.*

4. I have heard learned counsel for the parties and



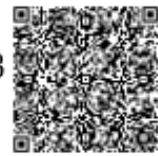
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considered their respective submissions besides analyzing the documents brought on the record.

5. Plaintiff filed an application Annexure P-5, under Order 11 Rule 14 CPC for production of some documents averring that these documents are in the possession of defendants No. 3 and 4, who are in control and are actively conducting the day to day affairs of the company. It has been averred that the said defendants have also transferred the residential house in favour of defendant No. 5. The documents have been sought for framing of issues and for the just decision of the case. Although, application was contested by defendants No. 4 and 5 by filing a reply, but defendant No.4 appeared before the trial Court and made a statement on 24.12.2024, which is reproduced hereunder:-

*“Stated that there had been a multiplicity of litigation wherein various documents were produced by all parties concerned. The documents referred in serial Nos. 3, 4, 5, 6, 8, 9, 10 and 11 in para 2 of the application, are not in my active possession. If the same are traced, I shall produce the same before the Hon’ble Court. Even otherwise, the documents sought for in the application under Order 11 Rule 14 of CPC by the plaintiff, may be available in the company’s record on the Ministry of Corporate Affairs (M.C.A.) portal. I state the aforementioned without admitting the allegations/averments made against defendants*



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*No. 3 and 4 in the application under reference.*

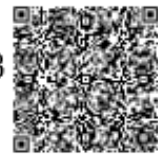
*ROAC*

*Signed*

*Dr. Ambika Sharma  
CJ(JD)/CHD./24/12/2024”*

6. Simultaneously, a statement was made by the plaintiff on the same day acknowledging the receipt of some documents i.e. the Memorandum of Association, Articles of Association, Certificate of Incorporation and copies of statutory annual returns of the company as mentioned at Serials No.1, 2 and 7 of para 2 of the application. By making a reference to the statements of both the parties, trial Court by order dated 24.12.2024, directed defendant No.4 to supply the remaining documents. However, on the deferred date, defendant No.4 did not produce the documents and the application was disposed of by the trial Court vide impugned order whereby plaintiff was debarred from bringing on record the said documents without the prior permission of the Court at any later stage of the suit.

7. Out of the eleven documents sought to be produced, defendant No.4 produced three documents and made a statement before the Court on 24.12.2024 that the remaining documents are not in his “active possession”. By order passed on the same day, trial Court directed him to produce the remaining documents. This order has not been challenged by the defendants. Rather this Court has been informed that an application was filed by defendants for rectification and correction of the said order, which has been declined by the trial



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Court on 09.05.2025 during the pendency of the instant revision petition. Defendants, therefore, cannot urge that it was necessary for the trial Court to examine the expediency, justness and relevancy of the documents in the light of the pleadings of the parties before ordering their production. Once a direction was given to defendant No. 4 to produce the documents, it was his bounden duty to do so.

8. The question therefore, arises that once the defendant has failed to produce the documents, whether plaintiff can be debarred from bringing them on record without the prior permission of the Court at any subsequent stage or whether defence of the defaulting defendant deserves to be struck off. It is the settled legal position that an erring party cannot be held guilty of willful default and its evidence cannot be struck off. In **Chinnappan Versus Ramachandran AIR 1989 Madras 314**, it has been observed as under:-

*“It is thus seen that this Court has consistently taken the view that a failure to produce documents directed to be produced by an order of court passed under Order 11, Rule 14, C.P.C. does not enable the court to exercise its powers under Order 11, Rule 21, C.P.C. In view of this, the application filed by the appellant seeking the assistance of the court to exercise its powers under Order 11, Rule 21, C.P.C. was misconceived and not maintainable. On this ground also, the*

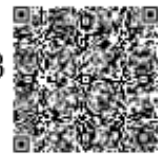


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*dismissal of the application has to be upheld, though it may still be open to the court, in the course of the trial of the suit, to draw such adverse inference, if it is so established on evidence that the respondent had the custody of the documents directed to be produced, but did not produce them.....”*

9. In **Ismail Pillai Mohammed Haneefa Versus Mohammedali Vaidyan Ibrahim Kunju Vaidyan, AIR 2007 Kerala 2006**, it has been held that non-production of the document does not entail an order of striking off of the defence. At best, Court could have drawn an adverse inference for the non-production of the document. In **State of Rajasthan Versus Rikhab Das Jain, AIR 1994 Rajasthan 114**, an order passed by the trial Court drawing an adverse inference against the defendant for not producing the original documents was upheld by the High Court. Co-ordinate Bench of this Court in **Tata Iron and Steel Company Ltd.'s** case (supra) as well as in **Punjab Beverages Pvt. Ltd.'s** case (supra), relied upon by counsel for the defendants, came to the conclusion that an erring party cannot be held to be guilty of willful disobedience on account of non-production of documents. The power of the Court to strike off defence under Order 11 Rule 21 CPC cannot be exercised by the trial Court in these circumstances. Provisions of Order 11 Rule 14 CPC cannot be applied to compel a party to produce any document and non-compliance of



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the provision would entail an inference against the defaulter. Plaintiff, who had sought production of the documents cannot be estopped from producing the documents at a subsequent stage. Trial Court has clearly erred in debarring the plaintiff from producing the said documents without its prior permission. This direction by the trial Court is perverse and cannot be sustained.

10. In view of the above discussion, impugned order dated 03.01.2025 Annexure P-1, passed by the trial Court is modified. The direction passed by the trial Court debarring the petitioner–plaintiff from bringing on record the remaining documents is set aside. It will be open to the trial Court to draw an adverse inference against the defendant(s), if it is established on evidence that despite possessing the documents, they do not produce them.

11. Revision petition is disposed of.

**11.07.2025**  
pooja saini

**(SUVIR SEHGAL)**  
**JUDGE**

Whether Speaking/Reasoned	Yes/No
<b>Whether Reportable</b>	Yes/No