

CRP 313/2006
BEFORE
THE HON'BLE MR JUSTICE H. N. SHARMA
CRP No 313/ 2006
13.11.2006
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THE HON'BLE MR JUSTICE H N SARMA

Heard Mr S Khan, learned counsel for the petitioner.

The challenge made in this petition, filed under Article 227 of the Constitution of India, is the order dated 26.5.2006 by which the learned trial Court kept in abeyance the proceeding of the suit until further order. The Criminal Revision is of the year 2005 and is pending disposal before this Court. The defendants by filing application No 699 and 935 dated 8.5.2006 prayed for stay of the proceeding of the suit so as to enable them to produce the original documents which are 28 in number filed in the Criminal Revision No 351 / 2005 pending before this Court. The learned trial Court considered it necessary that those documents are essential for just and proper adjudication of the case under the law. The learned counsel appearing for the plaintiff / petitioner submits that the defendants may be allowed to adduce secondary evidence instead of those 28 Nos of documents what was rejected. Adducing of secondary evidence can be permitted only in the circumstances mentioned in Section 65 of the Evidence Act. On perusal of the materials the circumstances of the case I find that those do not attract the provisions of Section 65 of the Evidence Act. in the instant case. Consequently, in such a situation, the order passed by the learned trial Court cannot be said to be unjustified requiring interference under Article 227 of the Constitution of India.

In view of the above discussions, I do not find any merit in this case, and hence, it stands rejected. It is observed, however, that the Registry shall take steps for hearing of the Criminal Revision No 351 of 2005 to avoid further delay in disposal of the suit. Moreover, the M S No 4 / 99 pending in the Court of Civil Judge(Sr Division), Nagaon, the petitioner may bring to the notice of the Registry subject to the aforesaid order and directions, this revision petition stands dismissed. It will be also open for the petitioner to furnish a certified copy before the appropriate forum for doing the needful.

JUDGE

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