

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

117-2

**Civil Revision No.8137 of 2015(O & M)
Date of Decision:02.12.2015**

Malayan Banking Berhad

....petitioner

Versus

Kay Vee Impex and others

.....respondents

CORAM: HON'BLE MR.JUSTICE ARUN PALLI

- 1.Whether Reporters of local papers may be allowed to see the judgement?
2.To be referred to the Reporters or not?
3.Whether the judgment should be reported in the Digest?**

Present: Mr.Paras Money Goyal, Advocate
for the petitioner

ARUN PALLI, J.(ORAL):-

Vide this petition, filed under Article 227 of the Constitution of India, a direction is being prayed for, to the trial Court i.e.Court of Ms.Parminder Kaur, Civil Judge (Junior Divn.), Jalandhar, to dispose of all interim applications moved by the petitioner, in Civil Suit No.32 of 2012, filed by respondent No.1.

It is maintained that the petitioner i.e. Malayan Banking Berhad is a foreign bank. Respondent No.1 (plaintiff) had entered into a contract with SIMS Copper SDH BHD (respondent No.3). Respondent No.1 (plaintiff) is the buyer and respondent No.3 is the seller. Pursuant to the said contract, respondent No.1 requested Oriental Bank of Commerce, Jalandhar (respondent No.2) to issue a Letter of Credit and as a result, respondent No.2 opened a Letter of Credit, details whereof, form part of the record. As the said Letter of Credit was available for negotiation with any bank in Malaysia, and

it was specifically recited that on receipt of documents, the issuing bank (respondent No.2) shall reimburse the amounts to the negotiating bank (petitioner) on its due date. Thus, the petitioner is the Negotiating Bank in the transaction.

Learned counsel for the petitioner contends that vide an ex parte order of injunction dated 04.04.2012 (Annexure P3), the trial Court had enjoined defendant No.1 (respondent No.2) from releasing any amount to the petitioner and respondent No.3, and the said order is operational to date, though, petitioner had filed its written statement on 25.04.2013 and also an application for rejection of the plaint. It is contended that the matter has been listed before the Court on more than 20 occasions and has only been heard in part. So much so, even the written submissions have been placed on record, in support of the pending applications, moved by the petitioner. Apparently, it is contended that the matter is being prolonged at the instance of the plaintiff. Not just that, on 14.07.2015 and 04.08.2015, the matter was indeed adjourned, pursuant to the request for adjournment by counsel for the plaintiff, but the proceedings recorded by the Court, indicate that the hearing was deferred pursuant to the joint request of the parties. It is urged that indecision is severely affecting the interest of the petitioner, as a period of more than 3 & ½ years have gone by since passing of the ex parte order of injunction.

For, trial Court, is in seisin of the dispute and its proceedings, in the normal parlance, this Court would have refrained from directing the trial Court to decide the pending applications,

within a specified time, but in the wake of the above noticed position, this Court is impelled to direct the trial Court to proceed, strictly, in accordance with law and decide all pending applications, as expeditiously as possible. Needless to assert, no undue adjournment shall be granted.

Revision petition is disposed of, in above terms. Needless to mention, that this order shall not constitute any expression of opinion on merits of the claim of either party.

02.12.2015
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(ARUN PALLI)
JUDGE