

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CO No. 3 of 2016 (O&M)

Date of Decision: 30.11.2016

Stefan Andersson

.....PETITIONER

VERSUS

Ericsson AG

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

PRESENT: None.

AUGUSTINE GEORGE MASIH, J.

Letter/Request for legal assistance issued by the District Court of Uster Switzerland according to the Hague Convention of 18th March, 1970 on the taking of evidence abroad in Civil or Commercial matters was addressed to The Ministry of Law and Justice, Department of Legal Affairs, New Delhi from Supreme Court of the Canton of Zurich Legal Assistance in Labour Law claim Mr. Bezirksgericht Uster, 8610 Uster Switzerland with reference No. WR 160856-O and Case No. CG070010/AS dated 20.04.2016 titled as Stefan Andersson vs. Ericsson AG, which relates to the period during which the plaintiff Stefan Andersson worked for Ericsson London. The defence is that the defendant requested the plaintiff number of times to return the signed contractual documents till 14.08.2006, failing which these two documents would not have been considered to be accepted and appropriate measures would be initiated. However, no contractual documents were either received by fax or otherwise leading into confirmation of the annulment of fixed-term employment contract of July

Ericsson UK (ETL) under whom the plaintiff worked and not Ericsson AG Schweiz in England. Thus, all the claims in this regard have been opined to be addressed to Ericsson UK (ETL). The requesting judicial authority is The District Judge, District Court of Uster, Switzerland.

On receipt of the above request, The Ministry of Law and Justice, Department of Legal Affairs (Judicial Section), Shastri Bhawan, New Delhi through the Assistant Legal Advisor, Government of India (Judl.), vide letter dated 07.10.2016, has addressed a letter to The Registrar, High Court of Punjab and Haryana, Chandigarh, forwarding the request from District Judge, District Court of Uster, Switzerland for taking of evidence abroad in labour law claim thereby recording the evidence of the witness Jerry Soper, Vice-President (Vizeprasident), Head of Global Customer Unit Bharti Ericsson India Private Limited, C/o Ericsson Forum, DLF-Cybercity, Sector- 25A, 60 Mtr Sector Road, Gurgaon and sent a report of the same for onward transmission to The District Judge, District Court of Uster, Switzerland in pursuance of which and keeping in view the provisions of the Hague Convention and the Code of Civil Procedure, the same has been treated as Civil Original Petition.

The provisions for Commission issued by the Foreign Courts and the procedure thereof are provided for in Section 78 and Order 26 Rules 19 to 22 of the Civil Procedure Code, 1908.

On perusal of the request, as referred to above, dated 07.10.2016, this Court is satisfied that the District Judge, District Court of Uster, Switzerland situated in foreign country is to obtain evidence in a labour law claim/dispute. Thus, in terms of the powers enshrined in Order 26 Rules 20 (a) and 21 of the Code of Civil Procedure, this Court deems it

appropriate to appoint the Chief Judicial Magistrate, Gurgaon as Commission for the purpose of recording, obtaining and taking evidence by examining and questioning the witness, Jerry Soper as mentioned at page 2 onwards contained in the letter of request dated 20.04.2016.

Registry is directed to issue warrant of Commission in the name of Sh. Gagandeep Mittal, Chief Judicial Magistrate, Gurgaon forthwith. The Registry shall append all the necessary papers filed in this petition with a copy of this order with the warrant of Commission. The Commission shall serve an advance notice to Jerry Soper, Vice President, Head of Global Customer Unit Bharti Ericsson India Private Limited, C/o Ericsson Forum, DLF-Cybercity, Sector- 25A, 60 Mtr Sector Road, Gurgaon of his visit to enable him to arrange the relevant documents, if any, and be available and ready to reply the questions as mentioned at Page 2 onwards.

The Commission is directed to return the evidence so collected in a sealed cover to the Registrar (Judicial) of this High Court within a period of four weeks from the date of receipt of the warrant of Commission, who shall then forward it to the Assistant Legal Advisor, Government of India (Judicial), Ministry of Law and Justice, Department of Legal Affairs (Judicial Section), Shastri Bhawan, New Delhi along with the letter of request for transmission to the concerned foreign Court/person.

No costs.

Ordered accordingly.

November 30, 2016

pj

**(AUGUSTINE GEORGE MASIH)
JUDGE**