

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.5687 of 2016 (O&M)

Date of decision:01.09.2016

Infinity Laboratories Pvt. Ltd.

... Petitioner

Vs.

State Bank of Patiala and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. D.B.S.Sobti, Advocate
for the petitioner.

AMIT RAWAL J. (Oral)

Notice of motion.

Mr. J.S.Toor, Advocate accepts notice on behalf of the respondents.

Mr. D.B.S.Sobti, learned counsel appearing on behalf of the petitioner submits that vide order dated 23.08.2016 passed in CR No.5391 of 2016 titled as Infinity Laboratories Pvt. Ltd. vs. State Bank of Patiala, (Annexure P-12), this Court had directed the trial Court to decide the application filed under Order 39 Rules 1 and 2 of Code of Civil Procedure (hereinafter referred to as "CPC") by 30th August, 2016 due to urgency in the matter owing to the encashment of Letter of Credit as the goods ordered were not actual one. He further submits that order has been passed on the aforesaid application but its certified copy is not available.

During interregnum, in view of the urgency in the matter, the

present revision petition has been filed for issuing appropriate direction to respondent No.1-Bank not to release payment against Letter of Credit. He has also drawn the attention of this Court to the status of the civil suit, Annexure P-14, wherein it has been shown that such application has been disposed of. He further submits that written statement on behalf of two defendants has not been filed and only reply to the aforesaid application has been filed.

Mr. J.S.Toor, learned counsel appearing on behalf of the respondents submits that liability of defendant No.3 was to bring the consignment and it is the duty of the petitioner to see the quality of the goods, therefore, the injunction granted would certainly effect defendant No.3 as Letter of Credit has further been handed over to the American Agency.

In rebuttal, Mr. Sobti, on instructions from his client submits that in case, the averments made in the application and suit are found to be correct, he is willing to compensate the respondents.

I have heard learned counsel for the parties and appraised the paper book and of the view that predicament of the petitioner is justified as he is left in lurch owing to non-availability of certified copy of the order and during the interregnum, the Bank may not encash the Letter of Credit.

Revision petition is disposed of with a direction to respondent No.1 that the Letter of Credit indicated in petition shall not be encashed within a period of one week from today. In case, the appeal is filed, the Lower Appellate Court shall decide the same as expeditiously as possible

preferably within a period of 15 days from the date of a receipt of certified copy of this order.

It is expected that the trial Court shall make available the certified copy of the order passed in the ad interim application.

A photocopy of this order be given dasti to the learned counsel for the petitioner under the signatures of the Reader of this Court.

September 01, 2016

savita

(AMIT RAWAL)

JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No