

In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No.7884 of 2016

Date of Decision: 23.11.2016

M/s G.Tech Splicing and another

--- Petitioners

versus

M/s G.R.Cranes & Elevators, Ludhiana

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Ms. Madhu Dayal, Advocate
for the petitioners**

Rekha Mittal, J.

The present petition directs challenge against order dated 28.7.2016 (Annexure P-3) whereby cross examination of PW1 Charanjit Singh has been treated as nil and the application filed by the petitioner for recalling order dated 28.7.2016 has been dismissed.

Counsel for the petitioner has submitted that M/s G.R. Cranes & Elevators through its partner Charanjit Singh has filed a suit for recovery of Rs.4,86,996/- alongwith pendente lite and future interest.

Charanjit Singh was examined in chief on 9.12.2015 and he appeared for his cross examination on 28.7.2016. It is further submitted that counsel for the defendant/petitioner was very much available on the date for cross examination of PW1 and as he was not present in the Court at the relevant time, cross examination of the witness has been treated as nil and the case has been adjourned for evidence of the defendants. It is argued with vehemence that in case the petitioners are not permitted to cross examine the main witness Sh. Charanjit Singh through whom the suit has been filed by the firm for recovery it would be of serious consequence for the petitioners/defendants who are contesting the proceedings with utmost care and diligence. It is prayed that the petitioners may be allowed one opportunity to cross examine Charanjit Singh PW1, subject to payment of costs for delay, if any, attributable to the petitioners.

I have heard counsel for the petitioners, perused the paper book particularly the impugned order.

Charanjit Singh PW1 is a material witness in the case through whom M/s G.R. Cranes & Elevators has filed the suit for recovery. The very fact that the petitioner filed the application for recalling order dated 28.7.2016 without any loss of time is sufficient to show that failure to cross

examine the witness on 28.7.2016 was not intentional much less mala fide. Keeping in view the principle of natural justice as well as that a fair opportunity must be provided to the parties for presenting their case before the Court before adjudication of their rival claims on merit, the petitioners are allowed one opportunity to cross examine Charanjit Singh PW1 but subject to the condition that the petitioner shall ensure cross examination of the witness on the date to be fixed by the Court for the purpose and the petitioners shall deposit Rs. 5000/- with the trial court well in advance and the amount shall be released in favour of Sh. Charanjit Singh, as per rules.

Before parting with the order, it is clarified that the petition has been disposed of without notice to the respondent in order to avoid inconvenience and incurring expenditure. However, if the respondent has any grievance to express, it shall be at liberty to file an appropriate application before this Court.

(Rekha Mittal)
Judge

23.11.2016

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No