

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

CR No.4666 of 2017

Date of Decision: 20.07.2017

Everest Industries Limited and anr.

.....Petitioners

Vs.

Hindustan Hydraulics Pvt. Limited

.....Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.P.K.Khindria, Advocate, for the petitioners.

RITU BAHRI, J. (ORAL)

The prayer in the instant filed under Article 227 of Constitution of India is for quashing of the order dated 16.09.2016 and 06.04.2017 passed by Civil Judge (Jr.Divn.), Jalandhar, whereby, the right of the petitioner to cross-examine the witness of the respondent was closed and application of the petitioner for recalling of order has been dismissed.

A perusal of the order shows that on 30.05.2016, the plaintiff has examined one witness by tendering their affidavit. His cross-examination was deferred at the request of learned counsel for the defendants for 12.07.2016. Thereafter, on 12.07.2016, he will not be examined by the counsel for the defendants and the case was again adjourned to 09.08.2016, subject to payment of costs of Rs.800/-. On 09.08.2016, on the request of counsel for the defendants, the case was again adjourned to 22.08.2016. Thereafter, on the next date, new counsel was engaged by the defendants and the previous counsel for the petitioner did not provide the copy of the file available with him including the evidence and for that reasons, he failed to cross-examine the PW-1 and the matter was again adjourned to 16.09.2016. On 16.09.2016, PW-1 Ramesh Chander was

remained present till 4 P.M. but learned counsel for the defendants failed to cross-examination and opportunity given to defendants was treated as nil by the trial Court.

Learned counsel for the petitioner submits that the new counsel was in the process of complete the instructions from the petitioner and as such, he could not cross-examine the witness i.e. PW-1 Ramesh Chander on 16.09.2016.

Keeping in view that only three opportunities were granted to petitioner cross-examination of witnesses, the order dated 16.09.2016 is set aside and trial Court is directed to grant one more and effective opportunity to the petitioner to cross-examination the witness i.e. PW-2 Ramesh Chander and conclude his evidence on the same date, subject to payment of Rs.10,000/- as costs with the District Legal Services Authority, Jalandhar.

Disposed of accordingly.

A copy of this order be given to learned counsel for the petitioner bearing signature of Bench Secretary of this Court.

(RITU BAHRI)
JUDGE

20.07.2017

anil

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>