

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

CR No.7106 of 2016

Date of Decision:07.12.2017

Shiv Shankar Bhatta Company ... Petitioner

Vs.

Ramjo ... Respondent

CORAM : HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present : Mr. Shrey Goel, Advocate for the petitioner.

Mr. Deepam Raghav, Advocate for the respondent.

RAJ MOHAN SINGH J. (Oral)

Perusal of the record shows that application for amendment of the original written statement was filed before the authority appointed under the Payment of Wages Act, 1934 on 6.3.2014. Said application was not decided and the order dated 21.7.2015 was passed by the Authority under Payment of Wages Act. Said order was assailed before the Additional District Judge, Kaithal, in appeal.

Petitioner took specific stand before the Additional District Judge that an application for amendment of the written statement was filed before the Authority and the same was neither decided independently nor along with the main case, therefore, adverse inference can be taken against the claimant/respondent. Additional District Judge vide impugned judgment discarded the prayer of the petitioner on the premise that it was the duty of the petitioner to get the application decided before the Authority for amendment in the pleadings. In

ground No.4 of the present revision petition, the objection was taken that in the event of acceptance of application, the fate of the case would have been different.

Apparently the prayer for amendment in the written statement was neither declined nor allowed by the Authority under the Payment of Wages Act. The primary dispute is with regard to extent of monetary entitlement on the basis of actual bricks moulded by the respondent. The amendment in my considered opinion would have changed the entire scenario of the case in the event of its acceptance. At this stage, no such opinion can be given on the ultimate merits of the application for amendment, but in any case, the said application ought to have been decided by the Authority under the Payment of Wages Act. At this stage, without adverting to the merits of the case, I deem it appropriate to remand this matter to the Authority under the Payment of Wages Act with a direction to decide the application in accordance with law, preferably within a period of three months from the date of receipt of a certified copy of this order.

With the above observation, present civil revision petition is disposed of.

07.12.2017
rajeev

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No