

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No. 409 of 2018

1. M/s J.P.W. Infratec Pvt. Ltd. A Company Duly Constituted Under India Companies Act, 1956 Having Its Registered Office at A1, Shyama Enclave 14, T.P.Nagar, Korba- 495677, District & Tehsil Korba, Chhattisgarh
.....Defendant No. 1
2. Shri Jaiprakash Vasani, S/o. Shri Jagdish Lal Vasani, Aged About 56 Years, Director M/s J.P.W. Infratech Pvt. Ltd. Having Its Registered Office at A1, Shyama Enclave 14, T.P. Nagar, Korba- 495677, District & Tehsil Korba, Chhattisgarh.
.....Defendant No. 3

---- Petitioners

Versus

1. M/s Konark Global Pvt. Ltd. A Company Duly Constituted Under Indian Companies Act, 1956, Through Its Director Shri Prashant Goel, Son Of Shri Shivkaran Goel, Aged About 33 Years, Having Its Registered Office at 411-A Samta Shopping Arcade, Samta Colony, Raipur, District & Tehsil Raipur, Chhattisgarh.
.....Plaintiff.
2. Shri Sagar Vasani, S/o. Shri Jaiprakash Vasani, Aged About 36 Years, Director M/s J.P.W. Infratech Pvt. Ltd. Having Its Registered Office At A1, Shyama Enclave 14, T.P. Nagar, Korba, 495677, District & Tehsil Korba, Chhattisgarh.
.....Defendant No. 2.
3. Smt. Rita Vasani, D/o. Shri Harbansh Lal Vasani, Aged About 50 Years, Director M/s J.P.W. Infratech Pvt. Ltd. Having Its Registered Office At A1, Shyama Enclave 14, T.P. Nagar, Korba, 495677, District & Tehsil Korba, Chhattisgarh.
.....Defendant No. 4
4. Smt. Isha Vasani, D/o. Shri Jaiprakash Vasani, Aged About 31 Years, Director M/s J.P.W. Infratech Pvt. Ltd. Having Its Registered Office At A1, Shyama Enclave 14, T.P. Nagar, Korba, 495677, District & Tehsil Korba, Chhattisgarh.
.....Defendant No. 5.
5. Smt. Disha Vasani, D/o. Shri Jaiprakash Vasani, Aged About 27 Years, Director M/s J.P.W. Infratech Pvt. Ltd. Having Its Registered Office at A1, Shyama Enclave 14, T.P. Nagar, Korba, 495677, District & Tehsil Korba, Chhattisgarh.
.....Defendant No. 6.

---- Respondents

For Petitioner : Mr. Abhyuday Singh, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

03.05.2018

Heard

1. The present petition is against the order dated 26.04.2018 whereby the right to cross examine the plaintiff's witness was closed.

2. Learned counsel for the petitioners submits that on 02.02.2018 an affidavit by way of statement was given by the plaintiff thereafter the case was fixed for cross examination on 27.03.2018 before the Court and on that date adjournment was sought for by the defendant petitioners herein and on a cost of Rs.400/- the case was adjourned. Subsequently, on 06.04.2018 though the order records the fact that the date was obtained but actually for want of electricity the proceedings could not be carried out and automatically the case was adjourned. On 26.04.2018 the counsel for the petitioners since had gone out of India, as such, he could not present and when the prayer was made for adjournment, it was denied and the case was closed. The counsel submits that in the facts of this case, one opportunity may be given otherwise the defendant would be deprived of his right to contest the case on merit.
3. Perused the order sheets. It appears that initially on 27.03.2018 on a cost of Rs.400/- the case was adjourned which was at the behest of the petitioners defendant. Subsequently, it was adjourned on 06.04.2018 and lastly on 26.04.2018 when the prayer was made to cross examine in absence of counsel was closed. Perusal of the order sheet would show that no enormous delay has been caused and the reasons have been assigned that the petitioners' Advocate Anand Mohan Singh Thkaur since he went out of India and he aware of the facts and dates prayer was made to cross examine the witness. Taking into totality and further balancing it with the period of pendency, as it appears that the case is of 2017 one opportunity may be allowed to cross examine the witness to advance the cause of justice on merit.

4. Accordingly, the order dated 26.04.2018 is set aside. The petitioners/ defendant is given one opportunity to cross examine and adduce evidence on payment of a cost of Rs.2000/- to be paid to the plaintiff. On the next date of hearing or thereafter the case shall be fixed for evidence of the plaintiff and the defendants shall be obliged to cross examine the witness without any further adjournment. Thereafter, the trial Court shall proceed accordingly.
5. With such observation, the petition stands allowed.

Certified copy, today.

Sd/-
(Goutam Bhaduri)
Judge