

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

CR No.4216 of 2018 (O&M)
Date of decision: 27.08.2018

Amit Katyal and Anr.

....Petitioners

Versus

M/s CHD Blueberry Realtech Pvt Ltd and Anr.

....Respondents

CORAM: HON'BLE MR. JUSTICE B.S.WALIA

Present: Mr. Ashish Chopra, Advocate and
Mr. Ajiteshwar Singh, Advocate for the petitioners.
Mr. Vinod S. Bhardwaj, Advocate for the respondents.

B.S.WALIA, J (ORAL)

[1] Prayer in the revision petition is for setting aside order dated 29.5.2018 passed by the learned Additional District Judge-cum-Presiding Judge, Special Commercial Court at Gurugram in CIS No.EXE/2193/17 titled M/s CHD Blueberry Realtech Pvt Ltd vs. M/s Iceberg Developers Pvt Ltd, dismissing the application filed under Section 153 read with Section 151 CPC for carrying out corrections in order dated 09.5.2018 (P.4).

[2] On 05.07.2018, this Court while issuing notice of motion passed the following order:

“ Learned counsel contended that respondent No.1 moved an application under Order 41 Rule 26 of the CPC against the petitioners in the execution petition filed by respondent No.1 against respondent No.2 to recover the alleged debt owed by the petitioners to respondent No.2 but issues have not been framed

appropriately and issue No.2 ought to have been framed as issue No.1 and depending upon the outcome of issue No.2, the question of adjudicating of issue No.1, onus of which has been cast upon the petitioners would have arisen since as per law, the onus to prove a point is on the party which goes to Court asserting a particular claim.

Notice of motion for 23.07.2018.

In the meantime, learned trial Court is directed to adjourn the proceedings listed before it for 09.07.2018 to a date beyond the date fixed before this Court.”

[3] Sh. Vinod S. Bhardwaj, Advocate appearing on behalf of the respondents states that he has no objection if original issue No.2 is re-numbered as issue No.1 and original issue No.1 is treated as issue No.2 and the question of adjudication of original issue No.1 (now re-numbered as issue No.2) is made subject to the outcome of original issue No.2 (now treated as issue No.1).

[4] Accordingly, revision petition is allowed in aforementioned terms in the light of the agreed stand of learned counsel for the parties.

August 27, 2018
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(B.S.WALIA)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable : Yes/No