

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 127

CR-6520-2018

Date of decision : 28.09.2018

Indian Institute of Science
Education and Research and another

..... Petitioners

VERSUS

Varpar International Pvt. Ltd. and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Atul Aggarwal, Advocate, for the petitioners.

DEEPAK SIBAL, J. (ORAL)

The present petition is directed against the order dated 04.07.2018, passed by the Additional Civil Judge (Senior Division), SAS Nagar, Mohali (for short, the Trial Court), through which the petitioners' evidence has been ordered to be closed.

Learned counsel for the petitioners submits that the petitioners are defendants No. 2 and 3 in the suit and since the time defendants' evidence was being led before the Trial Court, it was defendant No. 4 who was leading his evidence. No opportunity was exclusively granted to the petitioners for leading their evidence. However, on the ground that defendant No. 4 did not lead his entire evidence even after the grant of four effective opportunities, through the order impugned in the present proceedings, the Trial Court has closed the evidence of all the defendants including the petitioners. It is further submitted that vide order dated 14.09.2018, passed in CR-6185-2018 "*K. J. Bhuta vs. Varpar International Pvt. Ltd. and others*", this Court has granted one opportunity to respondent No. 3/defendant No. 4 to lead his entire evidence. In addition

to the above, since respondent No.3/defendant No.4 also wanted to lead expert evidence, this Court has permitted him to file a fresh application seeking to lead expert evidence to be decided by the Trial Court on its merits in accordance with law. Learned counsel for the petitioners seeks one effective opportunity for the petitioners to lead their entire evidence as also permission to file an application for leading expert evidence.

In line with the principles of natural justice as also not to preclude the petitioners from leading their entire evidence at the trial stage as also on the ground of parity since respondent No. 3/defendant No. 4, after closure of his evidence, has also been granted one effective opportunity to lead his evidence, subject to costs of ₹15,000/-, to be paid by the petitioners to respondent No. 1, after setting aside the impugned order dated 04.07.2018, the petitioners are granted one effective opportunity to produce all their witnesses.

In case, the petitioners produce all their witnesses on one date as fixed by the Trial Court and thereby show their bonafide, they would be at liberty to move the application which they seek to move for leading expert evidence. Such application would be considered and decided by the Trial Court on its merits in accordance with law. In case, such application is decided in favour of the petitioners, the leading of expert evidence would be in addition to the one opportunity granted to them through the instant order. However, if the same is dismissed, then there would be no occasion to lead any further evidence for the petitioners.

It is clarified that no opinion is being expressed on the merits of the petitioners' application which may be filed by them before the Trial

Court seeking to lead expert evidence.

The present petition is allowed in the above terms.

If the respondents are aggrieved by this order, they are at liberty to approach this Court through an appropriate application.

28.09.2018
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[DEEPAK SIBAL]
JUDGE

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No