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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.8303 of 2018 (O&M)

Date of Decision: 06.12.2018

M/s Neelkanth Rubber Mills

..... Petitioner

Versus

Punjab National Bank and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Abhilaksh Grover, Advocate, and
Mr. Anhod S.Miglani, Advocate,
for the petitioner.

SUDIP AHLUWALIA, J. (ORAL)

CM No.26943-CII of 2018:

For the reasons mentioned in the application, the prayer for preponing the date of hearing in the main case is allowed and the matter is taken up for consideration today itself.

Application stands disposed off.

CM No.26905-CII of 2018:

Ld. Counsel for the applicant-petitioner is permitted to place the documents (Annexures P-14 to P-16) on record.

Application stands disposed off.

CR No.8303 of 2018:

It has been submitted on behalf of the petitioner that vide the

impugned order dated 29.11.2018, the Ld. Civil Judge (Junior Division), Jalandhar, did not pass any effective order on the petitioners' application under Order 39 Rules 1 and 2 of the CPC for grant of interim injunction and simply directed issuance of notices for 14.12.2018.

2. The submission in this regard is that the Performance Bank Guarantee furnished on behalf of the petitioners would be illegally encashed by the respondents in the meantime, which would render their Suit altogether infructuous, even though from the documents filed on their behalf it can be seen that there is no fault on their part.

3. Ld. Counsel for the petitioner draws attention of the Court to Annexure P-6, which is the Letter dated 29.02.2016 issued by the respondents, in which the petitioner was directed to replace its alleged defective belts, which were otherwise found to be not satisfactory on examination.

4. According to the petitioner, the respondents sent their final reminder seeking such replacement on 07.04.2017 vide Annexure P-14, and the petitioner on the very next day replied that they were willing to supply the replacements, within four months, but actually made the compliance much earlier on 21.06.2017, vide the Invoice (Annexure P-16).

5. A copy of the order dated 05.12.2018, passed by a Co-ordinate Bench of this Court in CR No.8300 of 2018 in a virtually identical case has also been tendered by the petitioner, wherein the present respondents have been similarly restrained from invoking the Bank Guarantee till the next date.

6. In the present case, however, this Court is not inclined to issue

notice of the present petition upon the respondents, as the petitioner's application for temporary injunction is already pending before the Ld. Court below and the date fixed for the same is also not very far away (14.12.2018).

7. Consequently, the present revisional petition is disposed off at this stage itself, with a direction that the Performance Bank Guarantee furnished by the petitioner shall not be encashed only till 14.12.2018, after which the Ld. Court below shall take its own independent decision on merits.

8. A copy of the order be handed to Ld. Counsel for the petitioner under the signature of the Court Secretary of this Bench.

06.12.2018

Apurva

**(SUDIP AHLUWALIA)
JUDGE**

1. Whether speaking/ reasoned : Yes/ No
2. Whether reportable : Yes/ No