

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

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CRM-M No.13108 of 2016

Date of Decision: May 10th, 2018

Haryana State Pollution Control Board, Panchkula

...Petitioner

Versus

M/s Ansals Housing and Construction Limited and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Deepak Manchanda, Advocate
for the petitioner.

Mr. Ravinder Malik, Advocate
for the respondents.

AUGUSTINE GEORGE MASIH, J. (ORAL)

This petition has been preferred challenging the order dated 08.05.2015 passed by the learned Presiding Officer, Environment Court, Faridabad, whereby application preferred by the petitioner for summoning additional evidence i.e. six in number of which qua five the same has been dismissed.

It is the contention of learned counsel for the petitioner that the ground, on which the application is sought to be dismissed i.e. delay, alone cannot be permitted as that would hamper the interest of justice. The purpose of moving an application under Section 311 Cr.P.C. was limited to the extent of finding out the truth and it is with that intent that the evidence was being sought to be led so that the respondents would be brought to book. Petitioner was required to be given reasonable opportunity to prove its case which has been deprived to the petitioner by the impugned order dated 08.05.2015. He, therefore, prays that the impugned order cannot sustain.

petitioner as also that of the counsel for the respondents, I do not find any merit in the present petition as the order passed by the learned Presiding Officer, Environment Court, Faridabad, is based upon proper appreciation of the facts and law.

There can be no dispute that mere delay cannot be a ground to deny the movement of an application by any of the parties to the lis as the intent and purpose for which the Courts have been established is to find out the truth. However, in the facts and circumstances of each case, it has to be evaluated as to whether there has been due diligence on the part of the party concerned while approaching the Court, which in the considered opinion of this Court, is lacking in the present case which appears from the observations of the trial Court in the impugned order, which factual assertion has not been disputed by the counsel for the petitioner.

Para 8 of the impugned order reads as follows:-

“8. Perusal of file shows that an application dated 26.2.2015 for summoning of two witnesses was allowed by this court vide order dated 3.3.2015 where one opportunity was given to the complainant to conclude the evidence, however, the witness so allowed to be appeared before the court was not examined and the case was further adjourned for four more dates in which on 17.3.2015 and 7.4.2015 further the above mentioned two applications were moved. Perusal of file shows that the witnesses sought to be examined have not been mentioned in the list of witnesses attached with the complaint or in the complaint itself nor it has been made clear in the court that the evidence sought to be produced is ready to be given in this court. It is verbal contention of ld. counsel for complainant that at least 15 days were required for producing the report of building expert and that the other reports so sought from the Town Planner Sohna and Hydrologist were also not available in any shape with the present complainant. I am of the considered opinion

that allowing these applications at this stage would definitely hamper the right of accused regarding fair and speedy trial. There is no any mention in the complaint about the reports so sought to be produced and at this stage the complainant cannot be allowed to create evidence and produce it in the court. Leaving it apart the report of Expert Building Committee is not ready at this stage nor there is any proof that any such committee has been constituted. Further the case pertains to year 2007 and if the applications in hand are allowed it would amount to re-open the case for the next one year and as such being devoid of merit both of the applications are hereby dismissed except production of notification for which ld. counsel is allowed to file the copy on the next date of hearing.”

In view of the above, finding no merit in the present petition,
the same stands dismissed.

May 10th, 2018
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No