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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-2836-2022 (O&M)

Date of Decision:21.07.2022

M/s Jindal Cotex Ltd. and another

.. Petitioners

Vs.

Punjab State Power Corp. Ltd. and others

..Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Namit Gautam, Advocate for the petitioners.

...

Manoj Bajaj, J. (Oral)

Petitioners (defendants) have challenged the order dated 08.11.2021 (Annexure P-12) passed by Civil Judge (Sr. Divn.), Ludhiana, whereby the cross-examination of the witness PW-2 Er. Kulwinder Singh, Senior Executive Engineer was treated as nil, despite opportunity given.

Learned counsel has argued that plaintiffs' witness PW-2 was examined on 13.03.2020, who tendered his affidavit (Ex.PB) in examination-in-chief and the matter was adjourned for cross-examination on 26.03.2020. He submits that because of breakout of pandemic Covid-19, various restrictions were imposed by Administration to curb the spread of disease and the functioning of the Courts were also limited. While referring to the various zimni orders passed by the trial Court, it is pointed out that on 23.02.2021 when the physical hearing resumed in the Courts, the said witness was absent and the case was adjourned for this reason to 31.03.2021 and on the said date, the position remained the same and the witness appeared before the Court on 25.08.2021, but on the request of the petitioners/defendants No.1 to 7, the matter was adjourned to 15.09.2021

and on the said date, fresh notice was issued for service of defendants, as the counsel representing them had pleaded no instruction. He submits that thereafter, the case was taken up for effective hearing on 08.11.2021. when erroneously the Court proceeded to pass the impugned order without noticing the fact that defendants No.1 to 7 remain unserved.

Heard.

Considering the above background as well as the nature of order, this Court does not deem it appropriate to issue notice to the plaintiffs as the nature of order would not cause any prejudice to it and in case, the plaintiffs feel that some material facts have been concealed by defendants (petitioners), it shall be open for them to seek recalling of this order.

Further, examining the nature of the suit i.e. for recovery of Rs.3,05,10,095/- as well as the sequence of orders and the fact that the defendants No.1 to 7 were to be served, when the impugned order was passed, this Court is of the opinion that they could not be deprived of their valuable right to cross-examine plaintiffs' witness. Thus, the impugned order is set aside and it is ordered that the defendants be given one effective opportunity to cross-examine the said witness.

Disposed of.

21.07.2022
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes No
Yes No