

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

CR No.3852 of 2022

Date of decision: 14.09.2022

M/s Parth Impex

..... Petitioner

Versus

M/s Accord Enterprises

..... Respondent

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Rajinder Sharma, Advocate
for the petitioner.

Mr. Veneet Sharma, Advocate
for the respondent.

TRIBHUVAN DAHIYA J. (ORAL)

This revision petition under Article 227 of the Constitution of India has been filed for setting aside the order, dated 30.08.2022 (Annexure P-11). By this order, application moved by the petitioner-defendant for recalling the order dated 13.07.2022, whereby the defendant's evidence was closed by order, has been dismissed. The trial Court observed that the petitioner-defendant had already been given numerous opportunities to conclude his evidence by bringing the witnesses, but he failed to do that. Non-appearance of the defendant's witnesses was intentional and not *mala fide*.

2. Learned counsel for the petitioner, by referring to the diary maintained by his counsel before the trial Court (Annexure P-10), submits that a wrong date was noted in the diary, i.e., 01.08.2022 instead of 11.07.2022, and that was the reason defendant's witnesses

could not be cross-examined, though they had already tendered their affidavits in examination-in-chief before the trial court.

4. Learned counsel for the respondent-plaintiff, on the other side, contends that this was delaying tactic on the defendant's part. After passing of order dated 13.07.2022, the case was adjourned to 21.07.2022, then to 26.07.2022 and then to 01.08.2022, and on some of the dates the presence of learned counsel for the defendant before the trial Court has been recorded. Therefore, the plea taken by him is false.

5. Without going into the dispute with regard to the presence of the defendant's counsel before the trial Court, as recorded in the orders dated 21.07.2022 and 26.07.2022, this Court deems it appropriate, in the interest of justice, to afford one last opportunity to the petitioner-defendant to bring all his witnesses before the trial Court for their cross-examination on the next date fixed before the trial Court, i.e, 20.09.2022 subject to payment of cost of Rs.25,000/- to the respondent-plaintiff by setting aside the impugned order dated 30.08.2022, and also the order dated 13.07.2022. No further opportunity for the purpose shall be granted.

6. This petition stands disposed of in the above terms.

14.09.2022

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(TRIBHUVAN DAHIYA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No