

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

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FAO-COM No.24 of 2022 (O&M)
Date of Decision: December 5th, 2022

M/s EDAC Engineering Ltd.

...Appellant

Versus

L&T – MHI Power Boilders Private Limited, Delhi NCR and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE ALOK JAIN**

Present: Mr. Javed Ahmad, Advocate
for the appellant.

Mr. Vipul Aggarwal, Mr. Abhay Gupta
and Mr. Sooraj Sharma, Advocates
for the respondents.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this appeal is to the order dated 30.09.2022 passed by the Presiding Officer, Commercial Court/Additional District Judge, Faridabad, for which notice was issued, on which date the counsel for the respondents had put in appearance and although a request was made on behalf of the counsel for the appellant on the grounds of personal difficulty, the Court had proceeded to set aside the *ex parte status quo* order.

2. Learned counsel for the appellant contends that on 30.09.2022, when the case was listed for consideration on an application for interim relief as had been prayed by the appellant, the counsel could not appear because of personal difficulty i.e. his daughter was seeking admission in HILSR, School of Law, Jamia Hamdard University, New Delhi. The time for final verification of the original documents was fixed on Friday, 30th September, 2022 at 11:00 AM. In support of this, the counsel has placed reliance upon Annexure A/D. He further informs that in pursuance to the said verification of

the original documents, his daughter has got admission in the B.A. LL.B. 5 Years Integrated Programme for the batch 2022. The said request despite having been made to the Court was not acceded to, rather the Court had proceeded to vacate the *status quo* order vide the impugned order dated 30.09.2022. He makes a statement that after the lunch break at 2:00 PM, he had appeared before the Presiding Officer of the Court and informed with regard to the difficulty, which he was caught up in. Despite that, the Court said that since the matter has been heard and the opposite counsel is not there, he would not be in a position to accept his prayer and would be passing an order. Thereafter the order dated 30.09.2022 came to be passed. The counsel had thereafter advised his client to move an appeal before this Court leading to the present appeal.

3. Upon notice having been issued by this Court on 18.10.2022 vide which interim order was passed, counsel for the respondents has put in appearance and opposed the prayer made in this appeal by asserting various grounds and pleas, which we are intentionally not mentioning herein lest it may prejudice either of the parties as we may have to comment on them. Avoiding any such inadvertent comment on our part and keeping in view the facts and circumstances as have been narrated above, where the counsel for the appellant was indeed in personal difficulty, we set aside the impugned order dated 30.09.2022 and direct the Presiding Officer, Commercial Court/Additional District Judge, Faridabad, to hear the parties on 08.12.2022, the date already fixed before the Court and pass an order within a period of two days thereafter.

4. The present appeal stands disposed of accordingly.

5. In the light of the decision of the appeal, pending applications stand disposed of as infructuous.

6. Copy of this order be given *dasti* to the counsel for the parties under signatures of Bench Secretary of this Court.

**(AUGUSTINE GEORGE MASIH)
JUDGE**

December 5th, 2022
Puneet

**(ALOK JAIN)
JUDGE**

Whether speaking/reasoned: Yes

Whether Reportable: No