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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-2509-2019 (O&M)

Date of decision: April 10, 2023

M/s Tractor Trolley Association

....Petitioner

versus

M/s Chandan Agro Products Pvt. Ltd. and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Shehbaz Thind, Advocate for petitioner.

None for respondents.

ARUN MONGA, J. (ORAL)

Revision petition is to set aside order dated 18.03.2019 (Annexure P-

1) passed by learned Additional District Judge, Ludhiana whereby application for staying operation of judgment/ decree dated 08.07.2016 was allowed and a conditional stay was granted by imposing condition of furnishing bank guarantee amounting to Rs.21,60,000/-.

2. While issuing notice of motion on 26.04.2019, my learned Brother Amit Rawal, J. (as he then was in this Court) passed the following order:

“The lower Appellate Court, while entertaining the appeal of the third party, vide order dated 31.03.2017, overruled the objection of the contesting respondent qua non-payment of Court fee and adjourned the appeal as well as for consideration on application for staying the operation of the judgment and decree dated 08.07.2016.

The petitioner-M/s Tractor Trolley Association through its President, who is present in person, urged that they were third party appellants and had moved the application for stay as there was apparent collusion between the plaintiff and counter-claimants.

The order dated 31.03.2017 submitted along with written submissions, objection was taken care of and the appeal was ordered to be fixed for hearing on stay application, thus, there was deemed leave.

The lower Appellate Court, vide impugned order dated 18.03.2019, while staying the operation of the judgment and decree, imposed the condition of deposit of bank guarantee to the tune of Rs.21,60,000/-, which is not in tandem with Rules 6 and 10 of Order

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41 of the Code of Civil Procedure. It should have been construed as security.

Notice of motion for 05.07.2019.

In the meantime, the petitioner-third party appellants shall furnish the security of the amount, referred to in the impugned order, within a period of 15 days, failing which, interim stay granted by the lower Appellate Court, shall stand vacated.”

3. *Apropos*, on a Court query, learned counsel for petitioner submits that adequate security of equivalent amount of Rs.21,60,000/- has already been furnished by the petitioner before learned trial Court.

4. Despite notice, none has caused appearance on behalf of respondents, which is suggestive of the fact that respondents do not want to contest the revision petition and consents to the same being allowed.

5. Having heard learned counsel for petitioner, I am of the view that in the given scenario, for meeting the ends of justice and to balance the equities, pursuant to order dated 26.04.2019 passed by this Court, security already furnished by petitioner should continue to subsist, subject to final outcome of pending appeal before learned First Appellate Court. Ordered accordingly.

6. Disposed of, accordingly.

7. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

April 10, 2023

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No