IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(116) **CM-2061-CII-2023,**
CM-2063-CII-2023 and
CM-2066-CII-2023 in/and
CR-3447-2022
Date of Decision : February 06, 2023

M/s Krishna Alloys Pvt. Ltd and others .. Petitioners

Versus

Punjab State Power Corporation Limited .. Respondent

(116-2) **CM-2058-CII-2023,**
CM-2065-CII-2023 and
CM-2067-CII-2023 in/and
CR-3455-2022

M/s Krishna Alloys Pvt. Ltd and others .. Petitioners

Versus

Punjab State Power Corporation Limited and another .. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Nitin Sherwal, Advocate, for the applicant-petitioners.

Mr. Karan Kaushal, Advocate, for the respondents.

HARSIMRAN SINGH SETHI J. (ORAL)

CM-2061-CII-2023 and CM-2058-CII-2023

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As prayed for, the applications are allowed.
Annexures P-5 and P-6 are taken on record.

CM-2063-CII-2023 and CM-2065-CII-2023

Present applications have been filed for preponement/early hearing of the main case i.e. CR No.3447 of 2022 and CR No.3455 of 2022, which now stand adjourned to 12.07.2023.

Notice of the applications to the counsel opposite.

Mr. Karan Kaushal, Advocate, who is present in the Court, accepts notice on behalf of the respondents and raises no objection for the grant of prayer as raised in the present applications.

Keeping in view the averments made in the applications, the same are allowed and hearing of the main case i.e. CR-3447 of 2022 and CR No.3455 of 2022 is preponed from 12.07.2023 to today.

CR-3447-2022 and CR-3455-2022

Learned counsel for the petitioners argues that petitioner No.1-Company filed an appeal challenging the judgment and decree dated 09.08.2018 passed by the trial Court in Civil Suit No.204 of 2013 titled Punjab State Power Corporation Limited vs. M/s Krishana Alloys Private Limited and others but the said appeal has not been heard on merits on the ground that the Court fee required to be attached along with the appeal, has not been attached.

Learned counsel for the petitioners submits that an application was moved by appellant-petitioner No.1 to file the appeal as a pauper which application has been dismissed by the lower Appellate Court vide impugned order dated 14.07.2022 holding that though the properties which

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are in the name of appellant-petitioner No.1-Company have been mortgaged but as petitioner No.1-Company is still the owner of the said property, the Court fee was required to be affixed however, once the sold properties are not in possession of the appellant No.1-Company and there is no other property from which the Court fee can be generated, the lower Appellate Court was liable to allow the application of appellant No.1 to file the present appeal as a pauper.

The respondent has appeared and submits that apart from the company, there are two other appellants who have filed the appeal in their personal capacity and they have not disclosed their means financial capacity to state that they do not have money to deposit the Court fee, which fact has also not been considered by the lower Appellate Court while passing the order dated 14.07.2022.

Learned counsel for the respondents further submits that even qua petitioner No.1, the fact that all the properties are mortgaged and no property is with appellant No.1, also needs to be ascertained on the basis of the evidences which will come on record.

Keeping in view the above mentioned facts, as both the parties are raising objections to the order dated 14.07.2022 passed by the Lower Appellate Court, the said order is set aside with liberty to the lower Appellate Court to pass a fresh order on the basis of the evidence, which will come on record as to whether, the appellants can be allowed to file the present appeal as a pauper or not.

The separate examination be done qua the case of each of the appellant qua the properties which they have before passing of the fresh

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order adjudicating the prayers of the appellants to file the present appeal as a pauper.

The Civil Revisions are allowed in above terms.

CM-2066-CII-2023 and CM-2067-CII-2023

As the main civil revision petitions are allowed, present applications also stand disposed of.

A photocopy of this order be placed on the file of other connected case.

February 06, 2023 **(HARSIMRAN SINGH SETHI)**
harsha **JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

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