

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(124)

CR No.4345 of 2023
Date of Decision:09.08.2023.

M/s Annav Construction Company

.....Petitioner

Versus

M/s Khandelwal Metals

..... Respondent

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Ritesh Tomar, Advocate
for the petitioner.

Mr. Yaseen Sethi, Advocate
for the respondent.

VIKRAM AGGARWAL, J. (ORAL)

1. The present revision petition assails the order dated 17.07.2023 (Annexure P-6) passed by the Civil Judge (Sr. Division), Faridabad, vide which the application filed by the petitioner-defendant for leading additional evidence was dismissed.

2. A suit for recovery of ₹1,92,195/- was filed by the respondent-plaintiff against the petitioner-defendant. After the plaintiff evidence having been closed, the evidence of the petitioner-defendant was closed by the orders of the Court on 10.02.2023. The matter was fixed for rebuttal evidence. An application was filed by the petitioner-defendant for producing certain documents (mentioned in the application) by way of additional evidence. The said application was dismissed leading to the filing of the present revision petition.

3. Learned counsel for the petitioner submits that the prayer of the petitioner-defendant was only to produce certain documents by way of additional evidence and the said documents are essential for the just decision of the case. Learned counsel submits that the trial Court took a hyper technical view in dismissing the application filed by the petitioner.

4. Learned counsel representing the respondent-plaintiff, who was present in the Court and accepted notice has opposed the petition stating that no occasion arises to grant any further opportunity to the petitioner-defendant since sufficient opportunities were granted to the petitioner-defendant to conclude its evidence.

5. I have considered the arguments addressed by learned counsel for the parties. No doubt, sufficient opportunities were granted to the petitioner-defendant to conclude its evidence and the same was closed vide orders of the Court on 10.02.2023. Thereafter, the case has been adjourned 3-4 times for rebuttal evidence. The petitioner-defendant filed the application for additional evidence in the meantime (Annexure P-4) seeking to produce certain documents mentioned in the application by way of additional evidence. It was duly mentioned in the application that the said documents were essential for the just decision of the case.

6. In the considered opinion of this Court, though the impugned order does not suffer from any illegality, however, keeping in view the fact that matters should be decided on merits after giving sufficient opportunities to both sides, an opportunity should have been granted to the petitioner-defendant to produce the documents by way of additional evidence.

In view of the above, the present petition is allowed and the order dated 17.07.2023, passed by learned Civil Judge (Senior Division), Faridabad, is set aside. The trial Court is directed to grant one opportunity to the petitioner-

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defendant to produce the documents by way of additional evidence in accordance with law, subject to payment of ₹5000/- as costs to be payable to the respondent-plaintiff.

August 9th, 2023
Rekha

(VIKRAM AGGARWAL)
JUDGE

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No.