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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-27084-2023 (O&M)
Date of Decision:02.12.2023

M/S ALPHA CORP. DEVELOPMENT PVT. LTD.

.....Petitioner

V/s.

SANJAY SHAH AND OTHERS

.....Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present: Mr. Alok Jain, Advocate for the petitioner.

SANJEEV PRAKASH SHARMA, J. (Oral)

1. Learned counsel for the petitioner submits that the authority under the Payment of Wages Act, 1936 (hereinafter referred to as “the Act of 1936”) has passed an order accepting the claim filed under Section 15(2) of the Act of 1936 and awarded a sum of ₹9,00,000/- with penalty amount of ₹1,00,000/- and interest @ 12% per annum in favour of the applicants as against the petitioner. While the petitioner has challenged the said order dated 30.09.2019 before the learned Additional District & Sessions Judge, Gurugram by filing of an Appeal, the learned Additional District and Sessions Judge, Gurugram has refused to grant stay to the petitioner against the said order.

2. Learned counsel for the petitioner submits that the Appeal has been fixed for 08.02.2024. He further submits that similar orders have been passed by the Authority under the Act of 1936 in 19 different applications, and it had filed an Appeal in relation to the same, but the learned Appellate authority had held the same to be not maintainable for want of pre-deposit of

the award amount. Resultantly, the petitioner preferred Writ Petitions before this Court and several Writ Petitions are pending before this Court wherein interim stay was granted.

3. Learned counsel for the petitioner further submits that criminal proceedings were also initiated against the Director of the petitioner, therefore, Criminal Misc. Petition was filed before this Court wherein further proceedings have been stayed. In view thereto, the learned Appellate authority should have granted stay to the order dated 30.09.2019 as in similar cases, this Court has granted stay.

4. I have considered the submissions of learned counsel for the petitioner.

5. This Court finds that the Writ Petitions which have been filed before this Court are with respect to the issue whether Appeal would be maintainable without pre-deposit of the awarded amount and the present case is where Appeal has been entertained by the concerned Appellate Forum and on merits the case is being examined by the Appellate Forum. Therefore, the question to be examined by this Court in Writ Petitions preferred by the petitioner is different from the question which the Appellate Forum is going to examine.

6. The power of granting stay is a discretionary power which has to be exercised judiciously by the concerned Forum. If the Court has refused to grant stay at the stage of issuing notices, it does not mean that it has given a final verdict on the application for stay. It is only the *ex-parte* stay has been refused. The petitioner is always free to make his submissions before the

concerned Court and after the other parties have already been served at the stage.

7. Even otherwise under Article 227 of the Constitution of India, this Court would not interfere at the preliminary stage where the Court has to only examine whether interim protection should be awarded or not.

8. The Supreme Court in the case M/s Puri Investments Vs. M/s Young Friends and Co. and Others has held as under:-

“13. There was no perversity in the order of the Appellate Tribunal on the basis of which the High Court could have interfered. In our view, the High Court tested the legality of the order of the Tribunal through the lens of an appellate body and not as a supervisory Court in adjudicating the application under Article 227 of the Constitution of India. This is impermissible. The finding of the High Court that the appellate forum's decision was perverse and the manner in which such finding was arrived at was itself perverse.”

9. Therefore, no interference of this Court is warranted in the order dated 08.11.2023 (Annexure P-2) passed by the Additional District & Sessions Judge, Court. The Writ Petition is misconceived and the same is dismissed accordingly.

10. All the pending applications in this Writ Petition stand disposed of accordingly.

December 2, 2023
Ess Kay

[SANJEEV PRAKASH SHARMA]
JUDGE

Whether speaking / reasoned : Yes / No

Whether Reportable : Yes / No