

2024:PHHC:172924



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

111

CR-6010-2024 (O&M)
Date of decision: 19.10.2024

Rohit Tuli

...Petitioner

Versus

Harinder Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Amit Sharma, Advocate for the petitioner.

VIKAS SURI, J.

1. The present petition under Article 227 of the Constitution of India has been filed by defendant No.1-Rohit Tuli, for setting aside the order dated 05.10.2024 (Annexure P-8) passed by the learned Additional Civil Judge (Senior Division), SAS Nagar (Mohali), whereby the application moved by the plaintiff seeking permission to examine himself as witness through video conferencing has been allowed.

2. Briefly, the plaintiff/respondent No.1 filed a suit for recovery of Rs.4,81,632/- along with interest @ 12% from March 2018 till its realization. It was averred that the defendants are running the business of software development under the name and style of M/s Enterprise Mobility Xperts (eMobx) and appointed the plaintiff on 23.05.2011. The plaintiff has lastly worked as Solution Architect under the defendants till the month of March 2018. The salary of the plaintiff



was increased from time to time and last of such increase was in the month of April 2016 whereby the salary was increased from Rs.70,000/- per month to Rs.82,000/- per month. It is further averred that the defendants stopped paying the salary of the plaintiff since the month of July 2016 and on repeated requests of the plaintiff, have only paid part salary. Further, it was averred that from the month of July 2016 upto March 2018, the total balance salary of plaintiff comes to Rs.11,61,632/- but the defendants have paid only Rs.5,50,000/-. Hence, the difference, i.e. the remaining salary of Rs.4,81,632/- is due against the defendants. A legal notice dated 24.01.2019 was also got issued to the defendants through counsel but despite the same, defendants have failed to make the payment of the remaining salary of the plaintiff.

2.1 Upon notice of the suit, the same was opposed by filing joint written statement on behalf of defendant Nos.1, 2 and 4. From the pleadings of the parties, the issues were framed and the matter was deferred for leading evidence.

2.3 The plaintiff was examined-in-chief by way of affidavit on 25.05.2023 and his cross-examination was deferred at the request of counsel for the defendant. Later, the plaintiff filed an application seeking permission to be examined as witness through video conferencing since he was working in U.S.A. Upon notice of the said application, it was opposed by filing reply and taking preliminary objection regarding non-maintainability of the said application. It was further stated in the reply that the application had been filed on 06.03.2024, whereas the plaintiff



appeared in person before the Court on 02.07.2024 and thus, the application deserves to be dismissed.

2.4 After considering the rival contentions of both the sides and perusing the material on record, the trial Court after noticing the factual aspects, allowed the application subject to six conditions enumerated therein, vide order dated 05.10.2024.

3. Aggrieved by the aforesaid, the order dated 05.10.2024 has been assailed by way of the present petition.

4. Learned counsel for the petitioner has argued that the issues were framed in the present case on 08.09.2022 and thereafter, the case was fixed for plaintiff evidence. As plaintiff could not get himself examined, costs of Rs.5500/- were imposed on him for not leading evidence, which stands paid on 25.05.2023. The plaintiff tendered his examination-in-chief by way of affidavit on the said date and the hearing was fixed for 30.05.2023 for cross-examination of PW-1 Harinder Singh. On the said hearing, the petitioner filed an application to strike off the opportunity for leading evidence by the plaintiff for non-payment of costs, imposed earlier. The said application was disposed of vide order dated 31.01.2024, which has been assailed by the petitioner before this Court by way of CR-2808-2024 and the same is still pending. It is further submitted that the outcome of the present matter would be dependent upon the orders that would be passed in the earlier petition, i.e. CR-2808-2024. On the basis of the aforesaid contentions, it is prayed that the impugned order dated 05.10.2024 be set aside.



5. I have heard learned counsel for the petitioner and with his able assistance perused the record.

6. Admittedly, the plaintiff had tendered his affidavit, as examination-in-chief and was present for his cross-examination on the date fixed by the Court. However, instead of cross-examining PW-1 Harminder Singh, an application was filed by the defendants to strike off the opportunity for leading evidence, which application was disposed of vide order dated 31.01.2024. Thereafter, an application was filed by plaintiff for permission to examine the plaintiff as witness in plaintiff evidence through video conferencing. It was averred in the said application that the plaintiff is working in a multinational company and for some urgent project, he had to move to U.S.A. for certain period and is unable to travel from U.S.A. to India till the end of the year, as such. It was further submitted that the plaintiff was ready to bear all the expenses for the arrangement of video conferencing, the system for which has been put in place by the Hon'ble Supreme Court of India and the High Courts of the country as well as the District Courts.

7. It is notable that in exercise of powers under Articles 225 and 227 of the Constitution of India, this Court has framed the rules known as "Rules for Video Conferencing for Courts", which have been incorporated as Part – H of Chapter I of the Rules and Orders of Punjab and Haryana High Court, Volume-V. Vide notification bearing No. 82 Rules/II.D4 dated 10.12.2021, the aforesaid Rules have also been incorporated as Part-I of Chapter-1 of Rules and Orders of Punjab and



Haryana High Court, Volume-I. The notification dated 10.12.2021 reads as thus:

“High Court of Punjab and Haryana at Chandigarh

CORRECTION SLIP

No.82 Rules/II.D4

dated 10.12.2021

Pursuant to the ‘Model Rules on Video Conferencing’ sent by Hon’ble the Supreme Court of India, Hon’ble the Chief Justice and Judges of this Court have been pleased to frame the following rules as Part-I of Chapter-1 of the Rules and Orders of Punjab and Haryana High Court, Volume-I:-

“The procedure for Video Conferencing for Civil Matters in Subordinate Courts shall be followed as prescribed in Part-H of Chapter-1 of Rules & Orders of Punjab and Haryana High Court, Volume-V titled as ‘Rules for Video Conferencing for Courts’”.

**BY ORDER OF HON’BLE THE CHIEF JUSTICE
AND JUDGES.**

Sd/-09.12.2021

**(Arun Kumar Aggarwal)
Registrar (Rules)
for Registrar General”**

8. A perusal of the order dated 05.10.2024 would show that the following conditions have been imposed while allowing the application moved by the plaintiff seeking permission to be examined through video conferencing:

“(i) The Video Conferencing shall be done through the App and facility arranged by System Officer and for said purpose the counsel for applicant/plaintiff is directed to contact system officer in advance for Video Conferencing arrangements. Copy of this order shall also be supplied to the System Officer in advance for making proper



arrangements.

(ii) The petitioner shall arrange video conferencing facility at his own expense at his end and he cannot keep any person in the room of video conferencing except the technical person, who can sit along with the petitioner at the time of video conferencing so that this fact can be ensured that the witness is not tutored.

(iii) The said recording will be kept by the System Officer of this Court on Compact Disk, for future reference by marking the title of the case and date over the said Compact Disk which shall be submitted in Court. The blank CD shall be provided by the counsel for applicant/plaintiff to the System Officer in advance.

(iv) The petitioner shall pay all the cost, charges and expenses for his cross-examination through video conferencing and for this purpose, the Local Commissioner Ms. Ravinder Kaur, Advocate is appointed, who will ensure uninterrupted recording of evidence of the petitioner through video conferencing in the presence of System Officer.

(v) The evidence of witness is ordered to be recorded in one go at the time of video conferencing and both the counsels are directed to prepare their case before hand because for this purpose, no further adjournment will be given.

(vi) All the necessary documents which defendant wants to bring to the notice of the Court or confronting the witness shall be submitted with the Court before hand and the copy of the same is to be supplied to other party for forwarding it to PW-1 before the date of the video conferencing.”

9. Having given my thoughtful consideration to the matter,



keeping in view the admitted factual aspect of the case and totality of the circumstances, the apprehension of the petitioner that the evidence would not be recorded in accordance with the rules for video conferencing is not supported by any cogent material. Even otherwise the same is premature. A closer reading of the impugned order dated 05.10.2024 shows that the conditions imposed therein are not in derogation to the Rules framed by this Court for Video Conferencing for Courts, but are rather in addition to the same.

10. Learned counsel for the petitioner has not referred to any material to substantiate his apprehension that the relevant provisions incorporated in the Rules and Orders of the Punjab and Haryana High Court would not be adhered to by the Court while taking evidence through video conferencing. No material has been brought to the notice of this Court that would go to show that the impugned order is illegal or without jurisdiction.

11. In the light of the above, the present petition is disposed of with the observation that there is no perversity in the impugned order dated 05.10.2024. However, recording of the evidence would remain subject to the order that may be passed by this Court in CR-2808-2024. Further, if the Rules for video conferencing for Courts are not adhered to in letter and spirit, the petitioner would be at liberty to get his objection recorded at the time of examination of PW-1 Harminder Singh and the said objection would be dealt by the Court concerned at the appropriate stage.



12. The revision petition is disposed of in the aforesaid terms.

October 19, 2024
sumit.k

(VIKAS SURI)
JUDGE

Whether speaking/reasoned :	Yes / No
Whether Reportable :	Yes / No