



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CR-3173-2025

Date of Decision.:23.05.2025

M/s Albatross Shipping Limited and Others

.....Petitioners

Vs.

M/s Pensla Exports Private Limited and Another

.....Respondents

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. R.S. Bajaj, Advocate
for the petitioners.

DEEPAK GUPTA, J. (ORAL)

Petitioners herein are the defendants before learned Additional Civil Judge (Senior Division), Jalandhar in civil suit bearing No. CS-648-2015 titled "*Pensla Exports Private Limited vs. Albatross Shipping Limited and Others*". Petitioners are aggrieved by the order dated 22.04.2025 (*Annexure P-10*), whereby their objections to the tendering of the affidavit by witness - Mr. Sanjam Gupta on behalf of the plaintiffs along with accompanying documents was disposed of.

2. As the perusal of the paper-book would reveal that suit for recovery was filed by the plaintiff (*respondent herein*). The issues were settled on 11.01.2016. Case is at the stage of plaintiffs evidence. On 20.01.2025, affidavit of PW-10 Sanjam Gupta was tendered and the copy thereof was supplied to the counsel for the defendants *i.e. petitioners herein* for the purpose of cross-examination on the next date of hearing. Matter was adjourned to 03.02.2025. However, instead of cross-examining the above witness, the defendants- petitioners filed objections in permitting the tendering of the affidavit along with affidavit by Sanjam

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Gupta on the ground that his name did not find mention in the list of witnesses nor the copies of the documents, which are produced along with the affidavit, were earlier placed on record as per Order 16 CPC. Learned trial Court vide impugned order dated 22.04.2025 disposed of the objections by holding that affidavit of Mr. Sanjam Gupta dated 20.01.2025 shall remain on record and that he shall be permitted to appear and depose as a witness for the plaintiffs. Matter was accordingly adjourned to 12.05.2025.

3. Assailing the aforesaid order, it is contended by learned counsel that as per Order XVI Rule 1 CPC, parties are required to present a list of witnesses, whom they propose to examine, within 15 days after the settlement of the issues. In case, any witness is to be summoned, an application is required to be moved. Learned counsel has put stress on Order 16 Rule 1 (3) CPC so as to contend that though the Court may permit a party to call, whether by summoning through the Court or otherwise, any witness, other than those whose names appear in the list referred to Sub-Rule (1), but only if such party shows sufficient cause for omission to mention the name of such witness in the list.

4. Learned counsel has also referred to Order VII Rule 14 CPC, contending that in case, a plaintiff wants to rely upon a document, which is in his possession or power, he is required to deliver the document or copy thereof along with the plaint. As per Sub-Rule (3), if the document is not produced at the time of presentation of the plaint, the same would not be later on received in evidence without leave of the Court.

5. It is contended by learned counsel that in the present case, the plaintiff- respondent neither named Mr. Sanjam Gupta as a witness in the list of witnesses to be summoned; nor the copies of the documents tendered along with affidavit of Mr. Sanjam Gupta were earlier produced and as such, the affidavit of PW-10 Sanjam Gupta could not be taken on



record later on.

6. To the precise query put by this Court, as to whether any of the parties had filed list of witnesses within 15 days after the settlement of the issues on 11.01.2016 in compliance of the Order XVI Rule 1 (1) CPC, learned counsel conceded that no such list was filed either by the plaintiff-respondent; or by the defendants - petitioners. Learned counsel has only placed on record copy of an application dated 12.12.2019, whereby some witnesses were sought to be summoned by the plaintiff. This is not the list of witnesses, which was required to be submitting within 15 days from the settlement of the issues.

7. Once defendants- petitioners themselves had not filed any list of witnesses as per Order XVI Rule 1(1) CPC, they are debarred at this stage, to raise the objection that the affidavit of PW-10 Sanjam Gupta could not taken on record in evidence. In case recording the statement of this witness Sanjam Gupta is to be objected, it is not explained as to why the examination of other witnesses produced earlier by the plaintiff, was not objected to in the absence of list of any witnesses, which was required to be filed as per Order XVI Rule 1(1) CPC.

8. As has been rightly observed by the trial Court, by relying upon ***“K.K. Velusamy v. N. Palanisamy” (2011) 11 SCC 275***, liberal construction is to be placed upon the procedural provisions as to safeguard the rights of the parties. The procedural rules are meant to serve the ends of justice. Courts have inherit powers to allow deviation from procedural norms, in order to avoid any injustice and particularly, when the deviations are not deliberate and do not prejudice the rights of the opposite party; and rather they serve the larger cause of adjudicating the matter on merits.

9. Apart from above, as rightly observed by the trial Court, the defendants i.e. petitioners herein will get the opportunity to cross-examine

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the concerned witness i.e. PW-10 Sanjam Gupta.

10. Considering all the aforesaid facts and circumstances, this Court does not find any illegality or perversity in the impugned order. As such, holding the revision to be devoid of any merit, same is hereby dismissed.

(DEEPAK GUPTA)
JUDGE

May 23, 2025

Neetika Tuteja

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No