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HIGH COURT OF UTTARAKHAND AT NAINITAL

HON'BLE SRI JUSTICE SUBHASH UPADHYAY

CIVIL REVISION NO.51 OF 2026

15th May 2026

M/s Ganpati Packaging Industries Madhoganj Farm and Others

...Revisionists/ Defendants.

Versus

Rohit Bhambari and Others

..Respondents/ Plaintiffs.

Counsel for the revisionists : Mr. Abhishek Singh Rawat, learned counsel.
Counsel for the respondents : Mr. I.P. Kohli, learned counsel.

JUDGMENT: (per Mr. Subhash Upadhyay, J.)

The present revision has been filed assailing the order dated 01.04.2026 passed by the learned Judge Small Cause Court, Rudrapur, District Udham Singh Nagar in Suit No.13 of 2025 titled as "Rohit Bhambari and Others Vs. M/s Ganpati Packaging Industries and Others", by which an application no.21C under Order 9 Rule 7 CPC read with Section 151 CPC filed by the revisionists /defendants has been dismissed.

2. The brief facts of the case, as narrated in the Civil Revision, are that a suit for eviction and recovery of arrears of rent and damages was filed by the respondents/plaintiffs against the revisionists/defendants before the District Judge/SCC Court at Rudrapur, Udham Singh Nagar.

3. The respondents /plaintiffs contended that they



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are the owner and landlord of an industrial building at village Bichpuri Tehsil Bajpur and the revisionists had taken the said property on lease on 06.01.2009 for a period of ten years. Though the lease of the said property had to expire in the year 2019, however, before that a fresh lease deed was executed on 17.06.2015 for a period from 01.04.2015 to 31.03.2022 @ ₹45,000/- per month.

4. It is case of the respondents/ plaintiffs that on a request made by the revisionists/defendants in the month of February 2022 that the period of tenancy may be extended for a further period of six months, the tenancy was extended with a rent of ₹90,000/- per month and the revisionists started paying the rent @ ₹90,000/- per month from 01.04.2022. It is further case of the respondents that on 27.12.2022 a written undertaking was given by the revisionists to the effect that the property shall be vacated by September, 2023, however, neither the property was vacated nor any damages was paid since September, 2023. It is further case of the plaintiffs/respondents that the revisionist nos.1 to 3 without their consent further sublet the property to respondent no.4.

5. In the backdrop of the above mentioned facts, a suit for eviction and recovery of arrears of rent and damages was filed in which notices were issued to the



revisionists. However, despite notice as none of the revisionists put their appearance before the Trial Court, as such, vide order dated 21.01.2026 the suit was proceeded *ex-parte* against the revisionists. The revisionists preferred an Application No.21C under Order 9 Rule 7 CPC on 18.03.2026 which was rejected vide impugned order dated 01.04.2026 against which the present revision has been preferred.

6. Learned counsel for the revisionists/defendants submit that there was no proper service on the revisionists and they came to know about filing of the suit and order dated 21.01.2026 when the revisionists visited the site on 17.03.2026 where one of their employees/ worker, namely, Devender Singh informed about the pendency of the said suit and immediately on the next date an application was filed.

7. The contention of the revisionists/defendants is that as summons were served on the revisionist nos.2 to 4 through one Shri Ramesh Singh, as such, the learned Judge erred in law in presuming that Ramesh Singh was an authorized employee upon whom the summons could be served on behalf of the revisionist nos.2 to 4. He further submits that prior to 17.03.2026 the revisionists were not having any knowledge of pendency of the suit.



8. Per contra, learned counsel for the respondents / plaintiffs submitted that the order passed by the learned Trial Court is in accordance with law as the summons were served on the firm on 19.05.2025 and vide order dated 21.05.2025 the Trial Court had recorded its finding that summons were duly served on the firm/respondent no.1 and the said order dated 21.05.2025 has not been challenged.

9. Further the summons on respondent nos.2 to 4 were served through Ramesh Singh on 19.11.2025 and the revisionists have not denied the said fact in their application filed under Order 9 Rule 7 CPC that the said person was not their employee. He further submits that the revisionists had given an undertaking that they would vacate the premises in September, 2023 and the said fact is also evident from the affidavit filed by the revisionists in another pending case before this Court i.e. AO No.153 of 2024. Copy of the affidavit filed in AO No.153 of 2024 has been produced before the Court, which is taken on record.

10. Heard learned counsel for the parties and perused the record.

11. The entire case of the revisionists / defendants, as pleaded in their application under Order 9 Rule 7 CPC, is to the effect that they were not aware of the pendency of



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the suit before 17.03.2026 and they came to know about the pendency of the suit when on 17.03.2026 they visited the premises where an employee/ worker, namely, Devender Singh informed them about filing of a suit at Rudrapur. It is their further case that thereafter, the revisionists immediately verified the said fact on the official website of the E-Court Services of Indian Judiciary where they came to know about pendency of the suit and, on inspection of the case status, they filed their application without any delay on the very next date i.e. 18.03.2026.

12. The contents of the said application and the affidavit filed in support of the said application under Order 9 Rule 7 CPC is enclosed as Annexure No.3 to the revision, which reads as under:

*"IN THE COURT OF HON'BLE DISTRICT JUDGE/SCC COURT AT
RUDRAPUR, U. S. NAGAR*

SCC Suit No. of 2026

Rohit Bhambri

....Plaintiff

Versus

M/s Ganpati Packaging Industries, Madhagani Farm & Ors.

...Defendants

*APPLICATION UNDER ORDER IX RULE 7 READ WITH
SECTION 151 CPC FOR SETTING ASIDE EX-PARTE
PROCEEDINGS*

ON BEHALF OF DEFENDANT NOS. 1, 2, 3 & 4

Most Respectfully Submitted:-

1. That the above-mentioned suit is pending before this Hon'ble Court and the present application is being filed on behalf of Defendant Nos. 1 to 4.

2. That the defendants were never served with summons in accordance with law and no summons were ever personally received by the answering defendants.



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3. That the defendants had no knowledge whatsoever about the pendency of the present suit.

4. That on 17.03.2026, the applicant/defendants visited the premises where an employee/worker of the plaintiff, namely Devender Singh, informed them that some suit had been filed against the defendants at Rudrapur Court.

5. That thereafter, the defendants immediately verified the matter on the official website of the e-Courts Services of Indian Judiciary, where they came to know about the pendency of the present case and that the matter was listed for hearing on the said date.

6. That upon inspection of the case status, the defendants further came to know that this Hon'ble Court had been pleased to proceed ex-parte against the defendants vide order dated 21.01.2026.

7. That immediately thereafter, the defendants engaged counsel and filed their Vakalatnama today, and are now approaching this Hon'ble Court without any delay.

8. That the non-appearance of the defendants on the date fixed was neither intentional nor deliberate, but solely due to lack of knowledge of the proceedings.

9. That the defendants have a good and substantial defence to put forth in the matter and in case the ex-parte proceedings are not set aside, the defendants shall suffer irreparable loss and injury.

10. That no prejudice shall be caused to the plaintiff if the present application is allowed, whereas grave prejudice shall be caused to the defendants if the same is not allowed.

PRAYER:-

It is, therefore, most respectfully prayed that this Hon'ble Court may kindly be pleased to:

a) Set aside the ex-parte proceedings/order dated 21.01.2026 passed against Defendant Nos. 1 to 4;

b) Permit the defendants to file their Written Statement and objections in the interest of justice;

c) Pass any other order which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

Place: Rudrapur

Date: 18.03.2026

Defendants/Applicants

1,2,3 & 4

Through Counsel"



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"IN THE COURT OF HON'BLE DISTRICT JUDGE/SCC COURT AT
RUDRAPUR, U. S. NAGAR

SCC Suit No. of 2026

Rohit Bhambri

...Plaintiff

Versus

M/s Ganpati Packaging Industries, Madhaganj Farm & Ors.

...Defendants

AFFIDAVIT IN SUPPORT OF APPLICATION

I Saurabh Aggarwal S/O Pradeep Aggarwal R/O:- House No. 496, New Jawahar Nagar, Opposite Guru Govind Stadium, Jalandhar, Punjab-144001 do hereby solemnly affirm and declare as under:

Most Respectfully Submitted:-

1. That I am Defendant No. 3 in the present case and am well acquainted with the facts and circumstances of the case, hence competent to swear this affidavit.

2. That the accompanying application under Order IX Rule 7 read with Section 151 CPC has been drafted under my instructions and the contents of the same are true and correct to my knowledge and belief.

3. That the above-mentioned suit is pending before this Hon'ble Court and the present application is being filed on behalf of Defendant Nos. 1 to 4.

4. That the defendants were never served with summons in accordance with law and no summons were ever personally received by the answering defendants.

5. That the defendants had no knowledge whatsoever about the pendency of the present suit.

6. That on 17.03.2026, the applicant/defendants visited the premises where an employee/worker of the plaintiff, namely, Devender Singh, informed them that some suit had been filed against the defendants at Rudrapur Court.

7. That thereafter, the defendants immediately verified the matter on the official website of the e-Courts Services of Indian Judiciary, where they came to know about the pendency of the present case and that the matter was listed for hearing on the said date.

8. That upon inspection of the case status, the defendants further came to know that this Hon'ble Court had been pleased to proceed ex-parte against the defendants vide order dated 21.01.2026.

9. That immediately thereafter, the defendants engaged counsel and filed their Vakalatnama today, and are now approaching this Hon'ble Court without any delay.

10. That the non-appearance of the defendants on the date



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fixed was neither intentional nor deliberate, but solely due to lack of knowledge of the proceedings.

11. That the defendants have a good and substantial defence to put forth in the matter and in case the ex-parte proceedings are not set aside, the defendants shall suffer irreparable loss and injury.

12. That no prejudice shall be caused to the plaintiff if the present application is allowed, whereas grave prejudice shall be caused to the defendants if the same is not allowed.

Verification:-

I, Saurabh Aggarwal the deponent above-named, do hereby verify and declare that the contents of paragraphs [1 to X] of the foregoing affidavit are true and correct to the best of my knowledge, information, and belief. No part of it is false and nothing material has been concealed therefrom.

Deponent

Place: Rudrapur

Date: 18.03.2026

Deponent"

13. The learned Trial Court, however, recorded a finding that the summons on the firm/ respondent no.1 was duly served on 19.05.2025 and the services on the firm was found to be sufficient vide order dated 21.05.2025. The Trial Court further recorded a finding that summons on the other revisionist nos. 2 to 4 were served through employee of their firm, namely, Ramesh Singh on 19.11.2025 and, thereafter, suit was proceeded *ex-parte* on 21.01.2026. The detail of the Track Consignment Report of the India Post was also taken into consideration which verified that the item was 'delivered' on the address. It was further recorded by the Trial Court that the address of revisionist nos.2 to 4 was the same as was the address of the firm.



14. The question, which falls for consideration before the Court is that, as to whether the revisionists are correct in contending that they were not aware of the pendency of Suit No.13 of 2025 before 17.03.2026 (the alleged date when the revisionists contended that they came to know about the pendency of the suit for the first time on visit to the premises). The copy of the counter affidavit filed by the revisionists in the pending AO No.153 of 2024 clearly depicts that the said stand of the defendants / revisionists is not a correct statement as the documents enclosed as Annexure No.3 to the said affidavit reveal that the revisionists were aware of the pendency of the Suit No.13 of 2025 before 25.01.2026. As such, the entire contents of the application and the affidavit filed in support of the application under Order 9 Rule 7 CPC is an afterthought and, in fact, a false statement. For ready-reference contents of paragraph no.9 of the affidavit filed in AO No. 153 of 2024 and copy of letter dated 25.01.2026 enclosed as Annexure No.3 to the said affidavit is extracted as below:

Paragraph No.9 of the affidavit filed in AO No.153/ 24

“9. That being aggrieved the respondent/plaintiff submitted applications dated 25-1-2026 and 20-3-2026 before the Sub-Divisional Officer, Bajpur and SSP Udham Singh Nagar stating therein that although he sought time till 31-12-2025 to vacate the premises in dispute as he has arranged the alternate site at Shokanangla for his packaging unit but the appellants/defendants are not permitting the respondent/plaintiff to shift the materials from the premises in



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dispute so that he may vacate the premises as per settlement arrived between the parties and may shift his unit to the alternate site arranged by him. The true copies of the application dated 25-1-2026 and 20-3-2026 are being filed herewith collectively and marked as Annexure 3 to this affidavit."

Annexure No.3 enclosed with affidavit

“न्यायालय श्रीमान परगनाधिकारी महोदय बाजपुर जिला उधमसिंहनगर

प्रार्थी- मैसर्स गणपित पैकेजिंग इन्डस्ट्रीज मोघोगंज फार्म द्वारा पार्टनर पुनीत गुप्ता पुत्र श्री गिरधर गोपाल गुप्ता निवासी मकान नं 40 मौहल्ला नं 15 जालन्धर कैन्ट पंजाब

बनाम

विपक्षीगण- 1- देवेन्द्र सिंह पुत्र श्री जसवन्त सिंह

2- रोहित भाम्बरी

3- राजदीप सिंह पुत्रगण श्री देवेन्द्र सिंह द्वारा मुख्तारैआम देवेन्द्र सिंह पुत्र श्री जसवन्त सिंह

4- श्रीमति रुपाली सिंह पत्नी श्री रंजन लाम्बा पुत्री श्री देवेन्द्र सिंह द्वारा मुख्तारैआम देवेन्द्र सिंह पुत्र श्री जसवन्त सिंह निवासीगण माधोगंज फार्म ग्राम बिचपुरी तहसील बाजपुर जिला उधमसिंहनगर

महोदय,

प्रार्थी निम्नलिखित निवेदन करता है-

1-यह कि प्रार्थी फर्म ग्राम बिचपुरी तहसील बाजपुर मे विपक्षीगण की मकानियत व उसका परिसर किराये पर लेकर कार्य करती है विपक्षीगण के तंग परेशान करने पर प्रार्थी फर्म द्वारा एक दीवानी वाद सं 174 सन 2023 मैसर्स गणपित पैकेजिंग इन्डस्ट्रीज बनाम देवेन्द्र सिंह आदि दायर कर रखा है जिसमे प्रार्थी को स्थगन प्राप्त है जो आज दिनांक तक प्रभावी है एवं न्यायालयमे विचाराधीन है और यह याद विचाराधीन है।

2-यह कि प्रार्थी फर्म प्रत्येक माह का किराया विपक्षीगण को भेजते रहे है फिर भी विपक्षीगण द्वारा किराया नही लिया गया और माननीय सिविल जज सी०डि० के आदेशों की अवहेलना करते रहे एवं फर्म को नुकसान पहुँचाते रहे जिस कारण कई माह तक प्रार्थी फर्म बन्द रही व्यापार में काफी हानि हुई दस करोड का व्यापार तीन करोड में पहुँच गया प्लान्ट सुचारु रुप से नहीं चल पाया जिस कारण प्रार्थी फर्म द्वारा कन्टैम्ट ऑफ कोर्ट का वाद विपक्षीगण के विरुद्ध सक्षम न्यायालय में दायर है जो विचाराधीन है उक्त विवाद में अप्रैल 2025 मे आपकी अध्यक्षता में हुए निर्णय के अनुसार प्रार्थी फर्म द्वारा विपक्षीगण की मकानियत को खाली करने के लिये दिनांक 31.12.2025 तक का समय मांगा गया था प्रार्थी फर्म द्वारा ग्राम शौकानंगला मे मकानियत प्राप्त कर ली है तथा विपक्षी की मकानियत



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का बिजली का कनेक्शन भी कटवाने के लिये आवेदन कर दिया है सारी मशीन भी खोल ली है परन्तु विपक्षीगण प्रार्थी फर्म को सामान निकालने नहीं दे रहे हैं।

3—यह कि विपक्षीगण द्वारा प्रार्थी फर्म के विरुद्ध जिला जज महोदय के समक्ष लघु वाद सं 13 वर्ष 2025 वास्ते बेदखली/बसूली किराया भी दायर किया है जो विचाराधीन है।

4—यह कि विपक्षीगण किराये की मकानियत से सामान नहीं उठाने दे रहे हैं जिस कारण प्रार्थी फर्म का सामान वहां फसा हुआ है और किराये का परिसर खाली नहीं हो पा रहा है।

5—यह कि प्रार्थी फर्म को विपक्षीगण की मकानियत से सामान निकालने के लिये पुलिस सुरक्षा की आवश्यकता है।

अतः महोदय से प्रार्थना है कि थानाध्यक्ष थाना केलाखेडा को आदेशित किया जाये कि वह प्रार्थी को उपरोक्त वर्णित मकानियत व परिसर से प्रार्थी फर्म को सामान उठाने के लिये पुलिस सुरक्षा प्रदान करे जिससे विपक्षीगण की मकानियत खाली हो सके।

दिनांक

SHO (केलाखेडा)
कृ० नि० अ० कार्यवाही करने
का कष्ट करें

(sign)
25/1/26

प्रार्थी—

मैसर्स गणपित पैकेजिंग इन्डस्ट्रीज मोधोगंज फार्म
द्वारा पार्टनर पुनीत गुप्ता पुत्र श्री गिरधर गोपाल
गुप्ता पंजाब निवासी मकान नं 40 मौहल्ला नं 15
जालन्धर कैन्ट पंजाब
9634041051”

15. Perusal of the said letter dated 25.01.2026 would reveal that an application on behalf of revisionist no.1/firm was sent by revisionist no.2 - Shri Puneet Gupta (as a partner of the firm) to the SDM Bajpur where a request was made to provide police protection for vacating the



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premises. Paragraph no.3 of the said application in unequivocal terms specify that the firm and its partner were aware of the pendency of Suit No.13 of 2025 filed for eviction / recovery of rent and damages much prior to 17.03.2026. The said letter also bears the date 25.01.2026 below the endorsement whereby necessary directions were issued to S.H.O. Kelakhera. The said affidavit in AO No.153 of 2024 is filed by Shri Raj Mohammad being Power of Attorney of the revisionists who has also sworn the affidavit on behalf of the revisionists in the present revision.

16. The Hon'ble Apex Court in catena of judgments has held that a party should approach the court with clear facts and clean hands. In the present case, the facts stated above lead to one conclusion that the application filed under Order 9 Rule 7 CPC did not disclose the true facts. The learned Trial Court has rejected the application of the revisionists observing that there was sufficient services on the revisionist-firm and partners and the said finding of facts rendered on the basis of evidence are not perverse. Moreover, from the own affidavit filed by the revisionists in AO No.153 of 2024, it is clear that they were aware of the pendency of the suit well before 25.01.2026, as such, the entire case set up in the application and the affidavit filed on 18.03.2026 that they became aware of the said



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proceedings only on 17.03.2026 was an afterthought and was in contradiction of their application filed on 25.01.2026 before the SDM Bajpur.

17. Order 9 Rule 7 CPC empowers the Court to provide an opportunity to the defendant to put appearance an assigning good cause for the previous non-appearance, however, the said power cannot be exercised in favour of the defendant who being fully aware of the proceedings chose not to put their appearance.

18. Thus, viewed from any angle, the Court does not find the present case to be one in which the revisionists / defendants are entitled for any relief. The revision lacks merits and the same is, accordingly, dismissed.

19. As a sequel thereto, the miscellaneous applications, if any pending, shall stand closed.

SUBHASH UPADHYAY, J.

Dt: 15.05.2026

Sukhbant

**SUKHBANT
T SINGH**

Digitally signed by SUKHBANT SINGH
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