

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No.1599 of 2015

Date of Decision.06.04.2015

Kulwinder Singh

.....Petitioner

Versus

Harbans Singh

.....Respondent

Present: Mr. Brijeshwar Singh Bhalla, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers may be allowed to see the judgment ? No
2. To be referred to the Reporters or not ? No
3. Whether the judgment should be reported in the Digest? No

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K. KANNAN J. (ORAL)

1. In a summary suit instituted by the plaintiff on a promissory note said to have been executed on 4.11.2010 after issuing notice and when there was no response from the defendant-petitioner, the defendant wanted to seek for leave to defend taking up pleas that the promissory note was not true and that the condition recited in the document was also not true. His contention was that money of ₹ 1,10,000/- was taken from the defendant to send the defendant's son abroad and the plaintiff had misutilized some document given at that time for execution of promissory note. The Court had directed the payment of ₹ 7 lacs to be made as condition precedent for the grant of leave. The counsel is aggrieved that in a case where the defendant had a good case to bring in defence, the Court was unjustified in imposing heavy terms which were not capable of being complied with and which was oppressive in character.

2. I asked the counsel if there had been any notice prior to the institution of the suit demanding money in promissory note. The counsel admits that there had been a receipt of notice but he did not reply. In a situation where defendant would not respond to a notice for repayment of money on a promissory note but would want to come up with defence such as the promissory note is not supported by consideration and that it is not a genuine document, the Court was justified in assuming prima facie that there was no tenable defence but he was trying to build some new case. The Court still did not deny to him a right of defence but has allowed for a discretionary exercise to take a defence on condition that the amount is deposited. I will not find in a situation when the defendant has not responded to the notice issued prior to the institution of the suit that a direction for deposit was in any way oppressive or unjust.

3. I decline to make any intervention. The revision petition is dismissed.

(K. KANNAN)
JUDGE

April 06, 2015
Pankaj*