

**Civil Revision No.22 of 2016**

**In the High Court of Punjab and Haryana at Chandigarh**

**Civil Revision No.22 of 2016**

**Date of Decision:9.5.2016**

**Barjinder Kumar**

**---Petitioner**

**vs.**

**Mohinder Pal Bhatia**

**---Respondent**

**Coram: Hon'ble Mrs. Justice Rekha Mittal**

**\*\*\***

**Present:** Mr.S.S.Kamboj, Advocate  
for the petitioner

Mr.HPS Ghuman, Advocate  
for the respondent

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1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

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**Rekha Mittal, J.**

The present petition has been directed against order dated

24.11.2015 (Annexure P-3) passed by the Civil Judge (Junior Division), Nabha whereby application filed by the petitioner for leave to defend has been allowed and the petitioner has been directed to furnish surety bond in the sum of Rs. 5,00,000/-.

The petitioner has filed the instant petition to express his grievance only qua direction issued by the trial court to furnish surety bond in the sum of Rs. 5,00,000/- as a condition for grant of leave to defend the suit. It is argued that order passed by the trial court directing the petitioner to furnish surety bond, cannot be allowed to sustain in view of judgment of Hon'ble the Supreme Court of India ***Santosh Kumar vs. Bhai Mool Singh*** 1958 AIR (SC) 321.

Counsel for the respondent/plaintiff, on the contrary, would urge that the respondent has filed a suit for recovery of Rs. 3,25,000/- as principal amount and Rs. 1,17,000/- towards interest with future interest at the rate of 1.5% per month on the basis of pronote and receipt executed by the petitioner/defendant. It is argued that as the petitioner/defendant filed an application for leave to defend by raising vague plea that the pronote and receipt are without consideration and result of fraud and misrepresentation,

no fault can be found in the impugned order that has been passed by taking into consideration the propositions laid down by Hon'ble the Supreme Court of India in *Sunil Enterprises vs. SBI Commercial and International Bank Limited* 1998(5) SCC 354 after examining and analyzing the earlier judgments in *Santosh Kumar's case (Supra)*, *Milkiram (India) Private Limited vs. Chaman Lal Brothers*, AIR 1965 Supreme Court 1698 and *Michalec Eng.and Mfg. vs. Basic Equipment Corporation*, AIR 1977 Supreme Court 577. Further reliance has been placed upon judgment of Hon'ble the Supreme Court of India *Southern Sales and Services and others vs. Sauermilch Design & Handels GMBH*, 2008(4)RCR(Civil) 729.

I have heard counsel for the parties, perused the paper book and the judgments relied upon.

Though the order passed by the trial court does not make reference to judgment of Hon'ble the Supreme Court of India *Sunil Enterprises' case (supra)* but the propositions extracted in the said judgment have been mentioned in detail in para 4 of the impugned order. The learned trial court by taking into consideration those propositions examined the facts and circumstances of the present case and came to record

a finding that the petitioner/defendant is to be allowed leave to defend conditionally i.e. furnishing surety bond in the sum of Rs. 5,00,000/-. As the petitioner raised a bald assertion that the pronote and receipt are without consideration and result of forgery and misrepresentation, no fault can be found in the impugned order whereby the trial court has decided to allow application for leave to defend subject to the condition of furnishing a surety bond. In this context, reference can be made to judgment of this Court ***Baljinder Singh vs Jagan Nath 2004(3) RCR(Civil) 163.***

For the foregoing reasons, the petition stands disposed of. However, the petitioner shall be liable to furnish surety bond in the sum of Rs. 3,50,000/- instead of Rs. 5,00,000/- in compliance with the order passed by the trial court.

**(Rekha Mittal)**  
**Judge**

**9.5.2016**  
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