

In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No. 3793 of 2016(O&M)

Date of Decision: 28.5.2016

M/s Universal Buildwell Private Limited

---Petitioner

versus

M/s Mifamed Medical Private Limited

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Siddharth Gulati, Advocate
for the petitioner**

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?

Rekha Mittal, J.

The present petition has been directed against the order dated 9.11.2015 (Annexure P-5) passed by the Civil Judge (Senior Division), Gurgaon, dismissing the application filed under Order 38 Rule 5 read with

Section 151 of the Code of Civil Procedure (in short “CPC”) for attachment of property of the defendant/respondent before judgment.

Counsel for the petitioner has submitted that though in paras 1 and 2 of the impugned order, there is correct reference to the plea raised by the petitioner qua attachment of property of the defendant/respondent before judgment and reply thereto by the respondent but from para 3 onwards, the court has wrongly adverted to the provisions of Order 37 CPC dealing with the summary suits and right of the defendant to file an application for leave to defend and as a result disposed of the application by holding that leave to defend is granted to the applicant/defendant with a condition that he shall furnish a surety in cash or by immovable property to the extent of 50% of the surety amount of Rs. 24, 42,365/- being the refundable security lying with him. It is further submitted that in view of the error apparent on the face of record, committed by the trial court, the impugned order cannot be allowed to sustain and liable to be set aside.

I have heard counsel for the petitioner, perused the impugned order and am of prima facie view that the trial court has committed an error apparent on the face of record. That being so, the present petition is

disposed of with liberty to the petitioner to file an appropriate application before the trial court for review of the impugned order and the same shall be decided by the trial court, in accordance with law.

A copy of this order be given dasti on payment of usual charges.

(Rekha Mittal)
Judge

28.5.2016
PARAMJIT