

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

C.R.No.7242 of 2015 (O&M)

Date of Decision: May 17th, 2016

Pal Singh

...Petitioner

Versus

Hakam Singh

...Respondent

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

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

Present: Mr.Deepak Aggarwal, Advocate for
Mr.Veneet Sharma, Advocate,
for the petitioner.

Mr.Mahesh Dheer, Advocate,
for the respondent.

AMIT RAWAL, J. (Oral)

Petitioner-defendant is aggrieved of the order dated 14.10.2015, whereby the trial Court while allowing the application for leave to defend under Order XXXVII of the Civil Procedure Code, imposed a condition of furnishing surety bond in the sum of ₹5.00 lacs.

Mr.Deepak Aggarwal for Mr.Veneet Sharma, learned counsel for the petitioner-defendant submits that once the Court has formed an opinion that there are mootable points for granting relief, the condition cannot be imposed. In support of his contention, relies upon the order dated

13.2016 passed by this Court in **Civil Revision No.3075 of 2015 (Megh**

Singh Versus Ashok Kumar), relying upon the judgment rendered by the Hon'ble Supreme Court in **Mechelec Engineers & Manufacturers V/s Basic Equipment Corporation, 1976 (4) SCC 687** to hold that condition of furnishing surety bond of the amount cannot be imposed when there are triable and viable issues.

On the contrary, Mr.Mahesh Dheer, learned counsel for the respondent-plaintiff submits that the Court had an occasion to impose the condition, for, as per the averments in the application seeking leave to defend, it has been stated that the signatures on the pronote and receipt might have been obtained and, thus, there is indirect admission of the execution of the aforementioned documents and rightly so, condition has been imposed. In support of his contention, he has relied upon the ratio decidendi culled out by the Hon'ble Supreme Court in **Definance Knitting Industries Pvt.Ltd. Versus Jay Arts, 2006(4) R.C.R. (Civil) 493**, particularly condition No.4 that where a genuine doubt is created in the mind of the Court, it can impose the condition while granting the relief.

I have heard the learned counsel for the parties and appraised the paper book and of the view that once the Court has given a finding that there are triable and viable issues, the condition of furnishing surety bond cannot be imposed. There is clear cut admission of the execution of the pronote and receipt. The averments in the application, as noticed above, in my view, do not create any doubt for imposition of the condition. It is settled law that condition of surety can be imposed in rarest of rare case. The view of mine is supported by the judgment rendered in **Mechelec Engineers & Manufacturers (supra)**.

For the foregoing reasons, the impugned order imposing the

condition of furnishing surety bond to the tune of ₹5.00 lacs is hereby set-aside. The order granting relief qua leave to defend is upheld.

Revision petition stands allowed in the aforementioned terms.

May 17th, 2016
ramesh

(AMIT RAWAL)
JUDGE