

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

**CR No.5838 of 2015 (O&M)
Date of decision : March 08, 2018**

Kharak Singh

..... Petitioner

Versus

Mohinder Singh

..... Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Deepak Aggarwal, Advocate for the petitioner.

Mr. I.S. Dhaliwal, Advocate for

Mr. N.S. Dhandiwal, Advocate for the respondent.

1. Whether the Reporters of local newspaper 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 ?

KULDIP SINGH J. (ORAL)

Petitioner-defendant is aggrieved of the order dated 13.08.2015 (Annexure P-3) passed by learned Addl. Civil Judge (Sr. Divn.), Bathinda, vide which in a suit for recovery of ₹11,78,500/-, on the basis of pronote and receipt, the leave to defend was granted to him, subject to the condition of furnishing surety in the sum of ₹14,00,000/-.

The petitioner-defendant is aggrieved of the condition, vide which he has been directed to furnish surety of ₹14,00,000/-.

Heard.

Learned counsel for the petitioner has argued that once the bonafide a defence is found, the surety cannot be ordered.

Learned counsel for the petitioner has relied upon the authority of the Apex Court, delivered in case of ***“M/s. Mechalec Engineers and Manufacturers vs M/s. Basic Equipment Corporation, AIR 1977 Supreme***

Court 577 and the decision taken by this Court on 27.11.2014 in CR No.2214 of 2014, titled as “**Jaswant Singh vs Ram Sarup & Sons Commission Agents and another**”.

I am of the view that it depends upon the facts of each case. The present case is based on pronote and receipt and it was pleaded before the trial Court that a fraud was committed with the defendant, though the particulars of fraud were not given to the trial Court.

It being so, the circumstance of the present case require that surety should be taken. As such, there is no ground to interfere in the impugned order.

Accordingly, the present revision petition is dismissed.

(KULDIP SINGH)
JUDGE

March 08, 2018

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Whether speaking / reasoned Yes

Whether Reportable: No