

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

**CR-1164-2023 (O&M)
Date of decision: 18.04.2023**

GURMAIL SINGH

...Petitioner

VS

VINOD KUMAR

...Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Amarpreet Singh, Advocate,
for the petitioner.

Mr. Vivek Singla, Advocate,
For the respondent.

ARUN MONGA, J. (ORAL)

Present revision petition is to set aside impugned order dated 11.11.2022 (Annexure P-4) passed by Learned Civil Judge (Junior Division), Talwandi Sabo in I.A. 01 of 2022 in civil suit No. 586 of 2018 wherein application for leave to defend filed by defendant/petitioner under Order 37 Rule 3 (5) of the Code of Civil Procedure (for brevity, 'CPC') was though allowed, but on the imposition of onerous condition of furnishing surety bond in the sum of Rs.10 lakh as well as one surety of the like amount.

2. In the suit, *ibid*, for recovery of Rs.10,07,160/-, petitioner-defendant filed an application for leave to defend. Vide impugned order dated 11.11.2022 (Annexure P-4), learned Trial Court allowed the application of petitioner/defendant for leave to defend but imposed condition, as above.

3. Learned counsel for petitioner would argue that practically it amounts to a surety of Rs.20 lakh as against recovery of Rs.10,07,160/-. Learned trial Court imposed unreasonable condition on petitioner-defendant of double the amount. It means application for leave to defend is though technically allowed but effectively dismissed, he would contend.

4. Per contra, learned counsel for respondent strenuously opposes the petition.

5. I have heard learned counsel for parties and perused the case file.

6. There is substance in the argument of learned counsel for petitioner. In the premise, in order to secure the disputed amount and at the same time to balance the equity on both ends, impugned order is modified to the extent that learned trial Court shall insist for only one security of Rs.5 Lakh either by way of an FDR or of any collateral having value equivalent to Rs.5 lakh.

7. Disposed of, accordingly.

8. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

April 18, 2023

vandana

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No