

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

CR-1308-2023

Date of decision:-28.2.2023

Naveen Gupta

...Petitioner

Versus

Vikas Jindal

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

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

H.S. MADAAN, J.

1. In a civil suit under Order XXXVII for recovery of Rs.21,65,000/- filed by the plaintiff Vikas Jindal against defendant Naveen Gupta, on getting notice, the defendant Naveen Gupta appeared and sought leave to defend which was though opposed by the plaintiff but was allowed by the trial Court of Additional Civil Judge (Sr.Divn.), Nabha vide the impugned order dated 6.2.2023. However, the leave to appeal was granted with a direction to the defendant to file indemnity/surety bonds by the next date of hearing i.e. 10.3.2023 along with the written statement.

2. Such condition attached for grant of leave to defend left the defendant aggrieved and he has approached this Court by way of filing the present revision petition praying that the condition to file indemnity/surety bonds has been wrongly imposed by the trial Court and it should be withdrawn.

3. I have heard learned counsel for the petitioner besides going through the record and have been also gone through the judgments i.e. *Sudin Dilip Talaulikar Versus Polycap Wires Pvt. Ltd. and others, 2019(3) RCR(Civil)619, Defiance Knitting Industries Pvt. Ltd. Versus Jay Arts, 2006(4) RCR(Civil)493* and *B.L. Kashyap and Sons Ltd. Versus M/s JMS Steels and Power Corporation & Anr., 2002(1) RCR(Civil) 785* referred to by him in support of his contentions.

4. A perusal of Order XXXVII CPC goes to show that as per Rule 6(b) if the defendant is permitted to defend as to the whole or any part of the claim, the Court or Judge may direct him to give such security and within such time as may be fixed by the Court or Judge and that, on failure to give such security within the time specified by the Court or Judge or to carry out such other directions as may have been given by the Court or Judge, the plaintiff shall be entitled to judgment forthwith.

5. The trial Court has rightly exercised its jurisdiction in granting leave to defend to the defendant with a rider to file indemnity/surety bonds so as to safeguard the interest of the plaintiff and to be fair to both the parties. Defendant is feeling aggrieved without any justifiable reason. The judgments referred to by learned counsel for the petitioner are not applicable to the present case due to different facts and circumstances of the case and the context in which such observations had been made.

6. The impugned order passed by the trial Court is quite detailed and well reasoned and it does not suffer from any illegality or infirmity and is not having any element of arbitrariness or perversity. The discretion

has been exercised in a judicious manner. The revisional jurisdiction of this Court is quite limited and considering the facts and circumstances of the case, there is no reason to interfere with the impugned order by way of exercising the revisional jurisdiction.

7. Finding no merit in the revision petition, the same stands dismissed.

28.2.2023
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No