

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CR-4918-2023 (O&M)

Date of Decision: 21.11.2023

Jarnail Singh

....Petitioner

VERSUS

M/s Gurdial Singh Narinder Singh Commission Agency

....Respondents

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. G.S.Randhawa, Advocate, for
Mr. Paras Jagga, Advocate,
for the petitioner.

KARAMJIT SINGH, J.

Present civil revision petition has been filed by the petitioner/defendant against the order dated 12.7.2023 whereby the leave was granted to the petitioner to defend the suit subject to furnishing surety bonds/indemnity bonds to the tune of ₹ 15,50,000/-

2. Brief facts of the case are that the respondent/plaintiffs filed suit for recovery of ₹ 21,96,496/- (₹ 15,46,828/- principal amount + ₹ 6,49,668/- as interest) against the petitioner/defendant under Order 37 CPC on the basis of pronote and receipt dated 17.4.2019 executed by the petitioner in favour of the respondents. On notice of the suit, the petitioner appeared and filed an application for leave to defend the suit before the learned trial Court. Said application was contested by the respondent and was allowed by the learned trial Court vide impugned order whereby leave to defend has been granted to the petitioner subject to furnishing of surety bonds to the tune of ₹ 15,50,000/-. The petitioner being aggrieved by the aforesaid onerous condition being imposed by the learned trial Court has

filed the present revision petition.

3. I have heard the counsel for the parties.

4. Counsel for the petitioner submits that the suit filed by the respondent is totally false and nothing is due against the petitioner and further the suit filed by the respondent is time barred and as the petitioner raised plausible defence, the learned trial Court correctly granted permission to the petitioner to defend the suit as per provisions of Order 37 Rule 5 CPC but the condition imposed by the learned trial Court directing the petitioner to furnish surety bonds to the tune of ₹ 15,50,000/-, is not reasonable and deserves to be set aside.

5. I have considered the submissions made by the counsel for the petitioner.

6. Admittedly, the respondent has filed suit for recovery of ₹ 21,96,496/- under Order 37 CPC against the petitioner. It is the case of the respondent that the petitioner obtained cash loan of ₹15,46,828/- on various occasions but the petitioner failed to pay the said amount and executed a pronote and receipt worth ₹ 15,46,828/- and thus, suit for recovery of ₹ 21,96,496/- has been filed which also includes interest. The petitioner filed an application for leave to defend the said suit denying the averments and further took plea that the pronote and receipt are forged and fabricated documents and that no amount is due against the petitioner. Learned trial Court, while passing the impugned order, referred to decision of Hon'ble Supreme Court in **State Bank of Hyderabad v. Rabo Bank** 2015 (4) CCC 696 and decision of Calcutta High Court in **Kiranmoyee Dassi v. Dr J. Chatterjee**, AIR 1949 Cal 479 and held that in view of well settled

position of law, it would be in the interest of justice if the defendant is

allowed to defend the suit conditionally and consequently, permitted the petitioner to defend the suit but subject to certain conditions which are detailed above.

7. Taking into consideration the facts and circumstances of the case, this Court is of the view that the impugned order requires to be modified and the petitioner is not required to furnish surety bonds equivalent to the principal amount of pronote. In order to safeguard the interest of the respondents, it will be appropriate if the petitioner is granted leave to defend subject to furnishing of surety/indemnity bonds to the tune of ₹ 8 lakh in place of ₹ 15,50,000/- as has been directed by the learned trial Court.

8. For the aforesaid reasons, the present revision petition is partly allowed. While maintaining order of the trial Court, vide which the leave to defend has been granted to the petitioner, the condition imposed by the learned trial Court is modified and the petitioner is directed to furnish surety bonds in the sum of ₹ 8 lakh to the satisfaction of the learned trial Court within next 30 days.

9. The revision petition stands disposed of in the aforesaid terms.

(KARAMJIT SINGH)
JUDGE

November 21, 2023

Paritosh Kumar

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No