

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CR-5826-2023 (O&M)

Date of Decision: 15.11.2023

Kewal Singh

....Petitioner

VERSUS

M/s Sra Pesticides New Grain market

....Respondents

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Lupil Gupta, Advocate,
for the petitioner.

KARAMJIT SINGH, J.

Present civil revision petition has been filed by the petitioner/defendant against the order dated 11.9.2023 whereby the leave was granted to the petitioner to defend the suit subject to furnishing surety equal to the cheque amount claimed in the suit i.e. surety bonds to the tune of ₹ 3,25,000/-

2. Brief facts of the case are that the respondent/plaintiffs filed suit for recovery of ₹ 5,54,971/- against the petitioner/defendant under Order 37 CPC on the basis of cheque dated 10.12.2019 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 ₹ 3,25,000/-. 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 ₹ 3,25,000/-, 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 ₹ 5,54,971/- under Order 37 CPC against the petitioner. It is the case of the respondent that the petitioner purchased pesticides from the plaintiff-respondent on various dates amounting to ₹ 3,60,992/- but the petitioner failed to pay the said amount and cheque worth ₹ 3,25,000/- issued by way of part payment by the petitioner was dishonoured and thus, suit for recovery of ₹ 5,54,971/- has been filed which also includes interest and damages. The petitioner filed an application for leave to defend the said suit denying the averments and further took plea that the claim is time barred and that no amount is due against the petitioner Learned trial Court, while observing that the dispute can only be decided after giving an opportunity to the petitioner to test the veracity of the witnesses of the plaintiff-respondent by cross-examining them and thus, permitted the petitioner to defend the suit but subject to certain condition which has been 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 cheque amount. 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 bonds to the tune of ₹ 1.5 lakh in place of ₹ 3,25,000/- 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 ₹ 1.5 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 15, 2023

Paritosh Kumar

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No