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

(126)

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Date of decision: - 28.04.2025

Vijay Sharma

....Petitioner

Versus

Prithipal Singh Sohal

....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. D.K. Singal, Advocate, for the petitioner.

VIKAS BAHL, J. (ORAL)

1. Present civil revision petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 06.03.2025 (Annexure P-1) passed by the Civil Judge (Junior Division), Chandigarh in Civil Suit No.2098/2022 titled as “Prithipal Singh Sohal Vs. Vijay Sharma”, wherein, two applications filed by the petitioner, out of which one had been filed for marking the presence of the petitioner and the second application filed for seeking condonation of delay in appearance of the petitioner before the trial Court in the summary suit had been dismissed.

2. It is not in dispute that the respondent has filed a suit for recovery of Rs.22,000/- alongwith interest pendent-lite and future interest under Order XXXVII Rule 2 of the Code of Civil Procedure, 1908 and that the petitioner was served in the said case on 17.12.2022 and as per the said provision, the defendant had to put in appearance within 10 days

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from the date of receipt of summons. It is also not in dispute that the petitioner through counsel had put in appearance on 06.01.2023 which was beyond the period of the said 10 days.

3. Learned counsel for the petitioner has submitted that, as has been stated in the application (Annexure P-3), although the petitioner was served on 17.12.2022 but due to inadvertent mistake, the said summons were misplaced by the petitioner and were kept in other documents which were ultimately found on 25.12.2022. It is further submitted that there were winter vacations from 25.12.2022 to 01.01.2023 and it is for the said two reasons that there was a delay in appearing before the trial Court. It is stated that the said delay was bona-fide and deserves to be condoned.

4. This Court has heard learned counsel for the petitioner and has perused the paper-book and finds that the impugned order is in accordance with law and deserves to be upheld and the present revision petition being meritless, deserves to be dismissed for the reasons detailed hereinafter.

5. The trial Court vide the impugned order had observed that during the winter spell also, urgent work was being entertained by the Duty Judge and that even in case the winter spell was not taken into consideration, then also, there was no satisfactory explanation/justification for the petitioner to have not appeared through counsel from 02.01.2023 to 05.01.2023. It was further observed that in case the delay in appearance is condoned on the averments made in the application dated 06.01.2023 (Annexure P-3), in which it had been stated



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that it was on account of inadvertence that the summons had been misplaced, then the whole purpose of the mandatory provision regarding summary suits would stand frustrated. Reliance was placed upon a judgment of the Co-ordinate Bench of this Court in case titled as ***“Sandeep Kumar Vs. Satpal”***, ***passed in Civil Revision No.2796 of 2016, decided on 13.12.2017.***

6. This Court is of the opinion that the reasons given in the application (Annexure P-3) for condonation of delay in putting in appearance before the trial Court would not constitute “sufficient cause” so as to condone the delay of the petitioner in putting the appearance. The plea of inadvertent mistake of placing summons in some other documents, apart from being vague, would not constitute “sufficient cause”. Moreover, even as per the application (Annexure P-3), the summons had been found by the petitioner on 25.12.2022 and 10 days period was to expire on 27.12.2022 and even the winter vacations was up to 01.01.2023, thus, non-appearance of the petitioner from 02.01.2023 to 05.01.2023 is absolutely unjustified. The plea taken in para 5 of the application to the effect that on 02.01.2023, the clerk of the counsel had lost the brief of the case in the local bus and subsequently some unknown person had delivered the same in the evening of 05.01.2023 is, apart from being vague, apparently an afterthought. Moreover, once as per the case of the petitioner, he had found the summons on 25.12.2022 and had even engaged a lawyer, they should have filed the application if not during winter vacations, then, immediately on the reopening of the Court i.e. on



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02.01.2023 and the same had apparently not been done and the application had been filed on 06.01.2023. Thus, the impugned order has been rightly passed.

7. The Hon'ble Supreme Court in the case of “*Shalini Shyam Shetty and another Vs. Rajendra Shankar Patil*”, reported as (2010) 8 *Supreme Court Cases* 329, had observed that the High Courts cannot, at the drop of a hat, in exercise of its power of superintendence under Article 227 of the Constitution, interfere with the orders of tribunals or courts inferior to it. Nor can it, in exercise of this power, act as a court of appeal over the orders of court or tribunal subordinate to it. It was also observed in the said judgment that a statutory amendment with respect to Section 115 of the Civil Procedure Code does not and cannot cut down the ambit of High Court's power under Article 227 but at the same time, it must be remembered that such statutory amendment does not correspondingly expand the High Court's jurisdiction of superintendence under Article 227. The power of interference under this Article is to be kept to the minimum to ensure that the wheel of justice does not come to a halt and the fountain of justice remains pure and unpolluted in order to maintain public confidence in the functioning of the tribunals and courts subordinate to the High Court. It was also observed that the power under Article 227 may be unfettered but its exercise is subject to high degree of judicial discipline.

8. Keeping in view the above, this Court is of the opinion that the impugned order does not call for any interference by this Court while

exercising its powers under Article 227 of the Constitution of India and accordingly, the impugned order is upheld and the present revision petition being meritless, deserves to be dismissed and is dismissed.

April 28, 2025

naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes
Whether reportable?	Yes