



CR No. 5435 of 2025 (O&M)

122 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 5435 of 2025 (O&M)
DATE OF DECISION: 03.09.2025

M/S S.P. SURGICAL & EQUIPMENT CO. THROUGH ITS
AUTHORISED SIGNATORY MR. RAKESH KUMAR VERMA AND
ANOTHER

.....PETITIONERS

Vs.

SAGAR GAUDANI AND OTHERS

.....RESPONDENTS

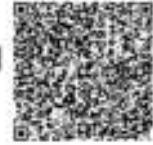
CORAM: HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL

Present: Mr. Harlove Singh Rajput, Advocate,
for the petitioners alongwith
Ms. Supriya Arora, petitioner No. 2 is present in person.

AMARINDER SINGH GREWAL, J.

1. Prayer in the present Civil Revision Petition filed under Article 227 of the Constitution of India read with Section 115 of the Code of Civil Procedure, 1908 (for short, '*the CPC*') is for setting aside the impugned order dated 23.05.2025 (Annexure P-13), passed by the learned Civil Judge (Junior Division), Panchkula, whereby the application for leave to defend filed by defendants No. 2 to 7 was allowed without imposing any condition.

2. The brief facts of the case are that the petitioner-firm, M/s SP Surgical & Equipment Company through its authorized signatory, along with others, filed a civil suit under Order XXXVII of the CPC for recovery of ₹44,40,000/- along with interest against the defendants, namely, Sagar Gaudani and others. Notice of the suit was given to the



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defendants/respondents. In pursuance thereof, defendants No. 2 to 7 appeared, whereas defendant No. 1 was proceeded against *ex parte*. On appearance, defendants No. 2 to 7 moved applications under Order XXXVII Rule 3(5) of the CPC seeking leave to defend and contest the suit.

2.1 Notice of the said applications was given to the plaintiffs/petitioners, who filed their reply. Ultimately, the learned Civil Judge (Junior Division), Panchkula allowed the said applications and granted leave to defend to the contesting defendants unconditionally.

3. Learned counsel for the petitioners contends that the order dated 23.05.2025 (Annexure P-13) is cryptic, inasmuch as the learned Civil Judge could and should have imposed conditions, such as directing the defendants to deposit at least 50% of the suit amount. Thus, it is argued that unconditional leave to defend ought not to have been granted.

4. On this point, reliance has been placed upon the judgment of the Hon'ble Supreme Court in *M/s Uma Shankar Kamal Narain and another vs. M/s M.D. Overseas Ltd.*, 2007 (2) RCR (Civil) 585.

5. In view of the order proposed to be passed, notice is not being issued to the respondents, as it would delay the proceedings besides entailing additional expense to them.

6. I have heard learned counsel for the revisionist-petitioners and perused the paper-book.

7. As noticed, a summary suit under Order XXXVII of the CPC for recovery of ₹44,10,000/- along with interest was filed by the present petitioners against the respondents-defendants. In their application for



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leave to defend, the defendants specifically contended that the suit was based on frivolous averments, filed only with the intent to grab money from them, and that nothing was due. At the same time, the defendants submitted that they would lead evidence at the trial in case unconditional leave to defend was granted.

8. The learned lower court, in its order dated 23.05.2025 (Annexure P-13), categorically held that, in the interest of justice, permission to defend ought to be granted, as triable issues were involved and appreciation of evidence would be necessary for effective adjudication. Accordingly, leave to defend was granted unconditionally.

9. Order XXXVII Rule 3 (5) of the CPC is reproduced as under:-

3. Procedure for the appearance of defendants-(1).....

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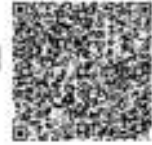
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“(5) The defendant may, at any time within ten days from the service of such summons for judgment, by affidavit or otherwise disclosing such facts as may be deemed sufficient to entitle him to defend, apply on such summons for leave to defend such suit, and leave to defend may be granted to him unconditionally or upon such terms as may appear to the Court or Judge to be just:

- ***Provided*** that leave to defend shall not be refused unless the Court is satisfied that the facts disclosed by the defendant do not indicate that he has a substantial defence to raise or that the defence intended to be put up is frivolous or vexatious:
- ***Provided further*** that, where a part of the amount claimed by the plaintiff is admitted by the defendant to be due from him, leave to defend the suit shall not be granted unless the amount so admitted to be due is deposited by the defendant in Court.”



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10. Coming to the facts of the case in hand, as noticed above, since the defendants had categorically denied the claim of the petitioners, alleging that the suit was based on frivolous averments only to extract money, this Court finds that the absence of any condition while granting leave to defend does not render the order dated 23.05.2025 (Annexure P-13) either illegal or perverse.

11. Furthermore, in *M/s Uma Shankar Kamal Narain's case* (supra), the Hon'ble Supreme Court held that if the defendant satisfies the Court that he has a good defence on merits, unconditional leave to defend must be granted. That case is distinguishable, since there, cheques amounting to about ₹39,30,856/- had been dishonoured, a suit for recovery of cheque amount had been decreed, and in appeal, leave to defend was granted subject to a deposit of ₹20,00,000/-. In the present case, no decree has been passed against the defendants.

12. Thus, this Court finds no merit in the prayer for setting aside the order dated 23.05.2025 passed by learned Civil Judge (Junior Division), Panchkula (Annexure P-13).

13. Finding no illegality therein, the present revision petition, being devoid of merit, is accordingly dismissed.

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

September 03, 2025
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(AMARINDER SINGH GREWAL)
JUDGE

Whether Speaking

Yes/No

Whether Reportable

Yes/No