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

CR-707-2026 (O&M)

Reserved on : 08.04.2026

Pronounced on : 21.05.2026Uploaded on : 22.05.2026

Ajai Jain

...Petitioner

Versus

Ashok Kumar Jain and others

...Respondents

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Rajesh Punj, Advocate,
and Mr. Sahaj Punj, Advocate,
for the petitioner.

Mr. Sankalp Srivastava, Advocate,
for respondent Nos.1 and 2.

Mr. Aman Kumar, Advocate,
for respondent No.3.

HARPREET KAUR JEEWAN, J.

1. Present Civil Revision petition under Article 227 of the Constitution is filed for quashing of the order dated 07.01.2026 (Annexure P-1), passed by the Civil Judge, Senior Division, Gurugram (*hereinafter referred to as 'the trial Court'*), declining the application filed by the plaintiff-petitioner to order judicial inquiry under Order XXXII Rule 15 of the Code of Civil Procedure, 1908 (*for short, 'the CPC'*), into the alleged mental infirmity/lack of litigation capacity of defendant No.2-mother of the petitioner, as well as order of dismissal dated 15.01.2026 (Annexure P-2), passed by the trial Court in the review petition filed under Order XLVII Rule 1 read with Section 114 of the CPC.



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2. As per the relevant facts in brief, the petitioner-plaintiff filed civil litigation by way of filing 03 civil suits against the respondents in the year 2014-15. The petitioner is son of respondent-defendants Nos.1 and 2. The suits are at the stage of plaintiff evidence. Various applications were filed during the pendency of the suits before the Civil Court.

3. During the pendency of the aforesaid suits, the petitioner-plaintiff filed an application dated 05.01.2026 (Annexure P-40) under order XXXII Rule 15 of the CPC, read with Sections 13 and 14 of the Rights of Persons with Disabilities Act, 2016 and made a prayer for holding of a judicial inquiry and also seeking a direction for independent medical evaluation of respondent No.2. The said application has been dismissed by the trial Court by passing the impugned order dated 07.01.2026 and the review application has also been dismissed vide order dated 15.01.2026. The petitioner has challenged the aforesaid orders by filing present Civil Revision Petition.

4. Learned counsel for the petitioner contended that a reply dated 06.01.2026 was filed on behalf of respondent Nos.1 & 2, contesting the aforesaid application (Annexure P-40). The said reply is alleged to have been signed by Sh. Apoorav Jain, who is alleging himself to be a lawyer of respondent Nos.1 & 2, whereas he is not holding any *vakalatnama* in his favour. In fact, Mr. Apoorav Jain is younger brother of the petitioner and he is a beneficiary. It was contended that respondent No.2 is not having the capacity to understand the proceedings, as such, it is mandatory to appoint a



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guardian and hold a judicial inquiry regarding the mental capacity of respondent No.2, which has been disallowed by the trial Court by passing the impugned order.

5. *Per contra*, learned counsel representing respondent No.2 contends that respondent No.2 would appear before the trial Court on the next date of hearing. It is offered that her statement may be recorded by the trial Court and after recording such statement, the trial Court may pass appropriate orders, if any required.

6. I have considered the aforesaid submissions and perused the paper-book.

7. The petitioner is relying upon discharge summary dated 10.06.2022 (Annexure P-39), prepared by the Department of Neurology, National Institute of Mental Health and Neuro Sciences (NIMHANS, Bengaluru). The remarks detailed in the said summary are as under:-

“History

This 71 years old female patient, from Gurgaon Haryana, Homemaker, MSc graduate presented with chief complaints of-

- 1. Change in handwriting since 2 years of age with reduction in size of letters*
- 2. Tremulousness of both upper limbs since 1 year*
- 3. Speech disturbances and gait disturbances since 1 years*

HOPI – Patient was apparently alright before 2 years when she noticed change in handwriting in the form that letters became progressively smaller. Later 1 year after the disease onset patient noticed tremulousness of bilateral upper limbs present in resting state also and on stretching of hands. But this used to decrease on doing any work or reaching objects. Patient also noticed change in gait where she became more slow and difficulty in taking multiple steps with feeling of unsteadiness. Patient noticed change in speech in the form of low volume and stuttering. She also developed



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swallowing difficulty for past 6 months for both solids and liquids, she gets cough during swallowing.

History of recent falls for past 1 year total of 4 episodes – most falls are backward. History of difficulty in sleep – takes longer time in bed before she sleeps, History of RBD present.

No history of memory disturbances. No history of Hallucinations, delusions.

No history of urinary urgency and frequency.

No history of loss of weight and appetite.”

8. The said summary, *prima facie*, indicates that no history was given to the treating doctor of any memory disturbances. Moreover, respondent No.2, through her counsel, has offered to appear before the trial Court for recording of her statement.

9. In such circumstances and in view of the offer made on behalf of respondent No.2, present petition is disposed of at this stage, with a direction that respondent No.2 shall appear before the trial Court on the next date of hearing and after recording her statement, the trial Court may proceed further in the matter, as per law.

10. It is clarified that there are no observations on merits of the controversy.

11. Pending miscellaneous applications, if any, shall stand disposed of.

21.05.2026

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[HARPREET KAUR JEEWAN]
JUDGE

Whether speaking / reasoned :
Whether Reportable :

Yes	No
Yes	No