

2026:PHHC:015787



CR-1960-2025(O&M) 1

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CR-1960-2025(O&M)

Date of decision : 03.02.2026

Arun Fotedar

... Petitioner

Versus

Jitender Fotedar and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Raghav Kapoor, Advocate
for the petitioner.

Mr.Sandeep Vermani, Advocate and
Mr.Aditya VErmani, Advocate
for the respondents.

VIKAS BAHL, J.(ORAL)

1. This is a Civil Revision Petition filed under Article 227 of the Constitution of India against the orders dated 21.08.2024 and 13.11.2024 (Annexures P-1 and P-2) in suit no.2127/2021 titled as “Dr.Jitender Fotedar vs. Arun Fotedar and another” vide which respondent no.2 (defendant no.2) has been permitted to file written statement.

2. The petitioner is defendant no.1 in the suit filed by respondent no.1 for declaration, cancellation of transfer deed and permanent injunction. The first order which has been challenged by the petitioner is order dated 21.08.2024 which is reproduced hereinbelow:-



*Ms. Sonia Menon, Advocate for defendant no.1.
Sh. Sanjay Malik, Advocate for defendant no. 2.*

Today the case was fixed for orders on application under Order XXXIX Rules 1 and 2 read with Section 151 CPC and on application under Order XXXIX Rule 4 of CPC.

*Order pronounced. **Vide my separate detailed dictated order of even date, the application under application under Order XXXIX Rules 1 and 2 read with Section 151 CPC stands partly allowed and application under Order XXXIX Rule 4 of CPC stands allowed.***

Now, the case is adjourned for 13.11.2024 for filing written statement of defendant no. 2.

Date of Order : 21.08.2024”

A perusal of above order would show that the same is a zimni order which records the fact that vide a separate detailed order, the application filed by respondent no.1 (plaintiff) under Order 39 Rules 1 and 2 read with Section 151 CPC was partly allowed. A reading of Order 43 Rule 1 CPC would show that such an order is an appealable order.

3. On a pointed query raised by this Court, learned counsel for the petitioner (defendant no.1) has submitted that the petitioner is not challenging the said part of the order vide which the injunction has been granted against the petitioner but is challenging the adjournment of the case for 13.11.2024 to the effect that defendant no.2 has been permitted to file written statement. It is submitted that it is the said part of the order which the petitioner (defendant no.1) is aggrieved of. On a pointed query raised by this Court, learned counsel for the petitioner has fairly submitted that the zimni orders prior to 21.08.2024 have not been placed on record and he is not aware whether the right of defendant no.2 to file written statement has



been closed or not, prior to the said date. The subsequent order dated 13.11.2024 vide which defendant no.2 has been permitted to file written statement and counter claim has also been challenged in the present petition.

4. Admittedly, respondent no.1 (plaintiff) has not challenged the order dated 21.08.2024 and 13.11.2024. The petitioner, who is co-defendant i.e., defendant no.1, is seeking to challenge two orders vide which the case has been adjourned for filing written statement on behalf of defendant no.2 and the said defendant no.2 has been permitted to file written statement. There is nothing on record to show that the right of defendant no.2 to file written statement has ever been closed. No law has been shown to the Court on behalf of the petitioner that in such circumstances, defendant no.1 has right to challenge the right of defendant no.2 to file written statement. The orders dated 21.08.2024 and 13.11.2024 are in accordance with law and deserve to be upheld.

5. 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.

6. Keeping in view the above said facts and circumstances, the present petition deserves to be dismissed and is dismissed.

(VIKAS BAHL)
JUDGE

February 03, 2026.
Davinder Kumar

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