



(118) IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CR-3909-2026 (O&M)

Date of Decision: 08.05.2026

M/S D.K. JEWELLERS AND ANOTHER

...Petitioners

Vs.

RENU BALA

...Respondent

CORAM:- HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present: Mr. Aditya Jain, Advocate  
for the petitioners.

VIRINDER AGGARWAL, J. (Oral)

1. The present revision petition has been filed seeking setting aside of the impugned order dated 13.01.2025 passed by the learned Civil Judge, Faridabad, whereby the application preferred by the petitioners under Section 151 of the Code of Civil Procedure, 1908, seeking recall of the unauthorized "No Objection" purportedly given by their erstwhile counsel, as well as for setting aside the permission granted to the plaintiff to withdraw her earlier affidavit and to tender a fresh affidavit along with additional documents exhibited as Ex. P-1 to Ex. P-22, has been dismissed.

2. Briefly stated, the respondent/plaintiff instituted a suit for recovery on the basis of cheque dated 02.12.2018. The suit was contested by the petitioners/defendants in accordance with law. During the course of trial, the respondent/plaintiff tendered her examination-in-chief by way of affidavit dated 08.08.2023 along with documents Ex. P-1 to Ex. P-8. At a subsequent stage on 22.09.2023, the respondent/plaintiff moved an application seeking permission to withdraw the said affidavit dated 08.08.2023 and to place on record a fresh affidavit by way of examination-in-chief. On the same date,

learned counsel appearing for the petitioners allegedly made a statement before the Trial Court expressing “no objection” to the aforesaid request of the respondent/plaintiff. Acting upon the said statement, the learned Trial Court permitted withdrawal of the earlier affidavit and allowed filing of a fresh affidavit along with additional documents. It is the specific case of the petitioners that they were neither informed nor consulted by their then counsel regarding the said concession and came to know about the same only on 07.02.2024, at the stage of inspection of record during execution proceedings. Thereafter, the petitioners moved an application under Section 151 CPC seeking recall of the unauthorized concession allegedly given by their former counsel and for consequential relief. The said application, after contest, was dismissed by the learned Trial Court vide the impugned order dated 13.01.2025. Aggrieved thereby, the petitioners have preferred the present revision petition assailing the legality and validity of the said order.

3. Learned counsel for the petitioners contended that the impugned order is ex facie illegal, arbitrary, and contrary to the settled principles of law. It is submitted that the learned Trial Court has failed to appreciate that any statement made by a counsel without proper authority or instructions from the party is not binding upon the litigant and can be recalled or corrected in appropriate proceedings by invoking the inherent powers of the Court under Section 151 of the Code of Civil Procedure, 1908. It is further contended that the learned Trial Court has erred in law in not exercising its inherent jurisdiction to recall the unauthorized concession, despite the fact that the same has caused serious prejudice to the defence of the petitioners. According to learned counsel, there is no provision under the Code of Civil Procedure



which permits withdrawal of a duly tendered examination-in-chief in the manner allowed by the Trial Court. By permitting such withdrawal and allowing the respondent/plaintiff to substitute her earlier affidavit with a fresh one along with additional documents, the learned Trial Court has, in effect, enabled the plaintiff to fill up the lacunae in her case and to improve upon the evidence already brought on record, which is impermissible in law. It is thus submitted that the impugned order suffers from material irregularity and miscarriage of justice, warranting interference by this Hon'ble Court in exercise of its revisional jurisdiction.

4. I have gone through the impugned order and paper-book carefully.

5. The learned Trial Court dismissed the application, inter alia, on the ground that the defendants/petitioners would have adequate opportunity to raise objections regarding the admissibility of documents Ex. P-1 to Ex. P-22 at the stage of cross-examination of the plaintiff, and that even if such objections were not raised at the time of tendering of the documents during examination-in-chief, the same would not preclude the defendants from challenging their admissibility at the appropriate stage. It was further observed that mere marking or exhibition of a document does not amount to its proof in accordance with law, and the evidentiary value of such documents is still required to be established during trial.

6. It has also taken note of the fact that, even as per the petitioners' own case, the counsel who allegedly made the concession permitting withdrawal of the earlier affidavit was duly engaged to represent them in Court proceedings, and that by engaging counsel, a party authorises the



advocate to conduct proceedings on its behalf, though the ultimate responsibility to assist and instruct the counsel in the conduct of the case remains with the litigant. It was further observed that the petitioners themselves were not actively pursuing the case, as the alleged concession was recorded on 22.09.2023, whereas the petitioners claim to have gained knowledge of the same only on 07.02.2024, thereby indicating that they were otherwise not diligently following the proceedings.

7. It was further noted that the impugned order was passed on 13.01.2025, whereas the present revision petition has been filed after an inordinate delay of nearly 15 months. Though it is correct that strict law of limitation may not strictly apply to proceedings under Article 227 of the Constitution of India, the Court is nevertheless required to examine whether any delay and laches in approaching the Court is satisfactorily explained or whether the same reflects indifference or lack of diligence on the part of the petitioner.

8. In the present case, there is no plausible or satisfactory explanation forthcoming on record with regard to the delay of nearly 15 months in filing the present revision petition. The petitioners have failed to account for each day's delay or to place any cogent material to justify such inordinate lapse of time in approaching this Court.

9. In the absence of any reasonable explanation, the conduct of the petitioners clearly reflects lack of due diligence and *bona fides*. The petition, therefore, appears to have been instituted only with an intent to delay and obstruct the expeditious disposal of the suit proceedings, rather than to seek any genuine redressal of grievance.

10.           Accordingly, finding no merit in the present revision petition, the same is hereby dismissed.

(VIRINDER AGGARWAL)  
JUDGE

08.05.2026  
kv

*Whether speaking/reasoned*           :       *Yes/No*  
*Whether reportable*                 :       *Yes/No*