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

CR-5757-2022

Date of decision: 16.02.2026

Gurjit Singh

...Petitioner

Versus

Paramjit Kaur and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Anupam Singla, Advocate for the petitioner.

Mr. Rakeshinder Singh, Advocate
for respondent Nos.1 and 2.

VIKAS BAHL, J. (ORAL)

1. This is a revision petition filed under Article 227 of the Constitution of India for setting aside the order dated 09.09.2022 (Annexure P-1) passed by the Additional Civil Judge (Senior Division), Patiala, vide which the application filed by the petitioner under Order 7 Rule 11 CPC has been dismissed.

ARGUMENTS ON BEHALF OF THE PETITIONER:-

2. Learned counsel for the petitioner has submitted that in the present case, respondent Nos.1 and 2 have filed civil suit No.2085 of 2020 and a perusal of the plaint would show that plaintiff No.2 has not signed the same. It is further submitted that as per his instructions, even



plaintiff No.1-Paramjit Kaur has not signed the same, rather it is the signature of one Radhey Sham Goyal which is appearing at the place where the name of Paramjit Kaur is mentioned in the plaint. It is thus, submitted that neither of the two plaintiffs have signed the plaint. Learned counsel for the petitioner has further referred to the affidavit which is stated to be filed along with the plaint and has highlighted the fact that neither of the two plaintiffs have filed the said affidavit and said Radhey Sham Goyal is stated to have filed the affidavit, who has alleged himself to be the attorney of plaintiff No.2. It is argued that the said attorney is not on record and there are no averments made in the plaint to the effect that the same has been filed through attorney nor any mention of the same has been made in the headnote. Learned counsel for the petitioner has submitted that in view of the same, the petitioner had moved an application under Order 7 Rule 11 CPC for rejection of the plaint in which it was specifically averred that no copy of the power of attorney had been annexed with the plaint.

3. It is argued that a perusal of the impugned order dated 09.09.2022 would show that it had been observed that the power of attorney had not been placed on record but it has been stated that the same is a matter of evidence. It is further submitted that in the impugned order dated 09.09.2022, the second reason given for rejection of the application under Order 7 Rule 11 CPC was to the effect that the petitioner-defendant No.1 had been proceeded against ex parte. It is submitted that a perusal of the order dated 12.05.2022 (Annexure P-6)



would show that the said ex parte proceedings have already been set aside against the petitioner/defendant No.1 and thus, the said reasoning is perverse. It is argued that the impugned order dated 09.09.2022 is against law and deserves to be set aside.

ARGUMENTS ON BEHALF OF RESPONDENT NOS.1 and 2:-

4. Learned counsel for respondent Nos.1 and 2, on the other hand, has submitted that even in case the power of attorney and GPA is not filed along with the plaint and is not on record, then also, the plaint of respondent Nos.1 and 2 should not be rejected summarily and opportunity should be given to respondent Nos.1 and 2 to make good the deficiency. In support of his arguments, learned counsel for respondent Nos.1 and 2 has relied upon the judgment of the Hon'ble Supreme Court in the case of **Uday Shankar Triyar Vs. Ram Kalewar Prasad Singh and another**, reported as **2006(1) SCC 75**. Learned counsel for respondent Nos.1 and 2 has further submitted that as per his instructions and as per the perusal of affidavit dated 08.09.2022, power of attorney is already on record.

ANALYSIS AND FINDINGS:-

5. This Court has heard learned counsel for the petitioner as well as learned counsel for respondent Nos.1 and 2.

6. It is the case of the petitioner that power of attorney which was allegedly in favour of Radhey Sham Goyal who had signed on behalf of plaintiff No.2 is not on record. A perusal of the reply dated 08.07.2022 filed by respondent Nos.1 and 2-plaintiffs to the application under Order



7 Rule 11 CPC would show that it is their plea that power of attorney is already on record. Even a perusal of the affidavit dated 08.09.2022 would show that it had been stated by Deepika that power of attorney is on record, although, it is not clear that how the said affidavit dated 08.09.2022 is on record when she had not appeared as witness. In the impugned order, it has been mentioned that the power of attorney is not on record. As per settled law, as referred to by learned counsel for respondent Nos.1 and 2, if power of attorney is not on record, one opportunity should be granted to respondent Nos.1 and 2-plaintiffs to place the same on record. Thus, the trial Court has proceeded in a strange manner, inasmuch as, if the power of attorney was not on record as observed in the impugned order, then, the case could not have proceeded further till the time the said error which was pointed out on behalf of defendants was rectified. Moreover, even the observations made in the impugned order dated 09.09.2022 for rejection of the application under Order 7 Rule 11 CPC to the effect that the petitioner/defendant No.1 was proceeded against ex parte, is also perverse as a perusal of order dated 12.05.2022, which has not been disputed before this Court, would show that prior to the passing of the impugned order, ex parte proceedings against defendant No.1/petitioner had been set aside.

7. During the course of arguments, it has been fairly submitted by both the counsel that the impugned order dated 09.09.2022 be set aside and the trial Court be directed to pass a fresh order after hearing both the parties concerned.



8. Keeping in view the abovesaid facts and circumstances and the fair stand taken on behalf of the petitioner as well as respondent Nos.1 and 2, the present revision petition is disposed of and impugned order dated 09.09.2022 is set aside and the trial Court is directed to pass a fresh order on the application under Order 7 Rule 11 CPC after taking into consideration the pleadings, documents and arguments of both the parties.

9. It is made clear that this Court has not opined on the merits of the case and it would be open to both the parties to raise all the pleas before the trial Court in support of their arguments and the same would be considered independently, in accordance with law.

10. All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

16.02.2026

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No