



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

167

CR-8058-2025

Date of decision:12.01.2026

BHARAT DASS

...PETITIONER

VERSUS

ISHWAR DASS

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Rahul Garg, Advocate
for petitioner.

PARMOD GOYAL, J.

Petitioner-defendant is aggrieved by impugned order dated 22.08.2025 (Annexure P-1) passed by Civil Judge (Junior Division), Nabha, whereby application for leave to defend was allowed on the condition to furnish security equivalent to 50% amount sought to be recovered.

2. Admittedly, respondent-plaintiff had filed a suit under Order XXXVII of Code of Civil Procedure, 1908 for recovery of Rs.1,75,700/- i.e. Rs.1,40,000/- along with interest @ 1.50% per month from 21.10.2021 to 21.03.2023 on the basis of pro-note and receipt executed by petitioner-defendant in favour of respondent. Petitioner-defendant appeared and preferred application seeking leave to defend. It was asserted that receipt and pro-note relied upon by respondent-plaintiff are forged and fabricated and taking of loan was denied by petitioner-defendant.

3. Learned Court of first instance after taking into consideration judgment of Hon'ble Supreme Court titled **Mikhiram (India) (P) Ltd. v. Chamanlal Bros.**, AIR 1965 SC 1698 concluded that case of petitioner-defendant falls in third category as noted in above mentioned judgment and had ordered conditional leave to defend subject to furnishing of security to the extent



of 50% of amount sought to be recovered.

4. No doubt leave to defend can be granted with or without condition by the Court. However, while granting leave to defend and putting conditions, the facts and circumstances of each case have to be appreciated and only in case learned trial Court comes to conclusion that even though petitioner has raised triable issues but there is a doubt left about the petitioner's-defendant's good faith or genuineness of triable issues, conditions both as to time or mode as well as payment into Court or for furnishing security can be imposed. Learned Court of first instance after considering nature of allegations made by respondent-plaintiff as well as denial of petitioner-defendant, concluded that allegations and counter-allegations made by parties needs to be established by leading evidence and averments in application for leave to defend alone is not sufficient to conclude that petitioner-defendant has a substantial impeachable defence.

5. Therefore, it is clearly made out that learned Court of first instance has clearly noticed that petitioner-defendant has raised triable issues but there is doubt regarding petitioner's-defendants good faith or genuineness of triable issues which can only be established by evidence. Therefore, the conditional leave to defend cannot be held to be bad in law.

5. Present revision petition is dismissed being without any merit.

6. Pending application(s), if any, stand disposed of.

(PARMOD GOYAL)
JUDGE

12.01.2026
Sunil Chander

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