



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
289(2)

Date of decision: 07.05.2026

CR-9284-2025 (O&M)

M/s Bioaide Corporation & Anr.

...Petitioner(s)

Vs.

Rajesh Garg

...Respondent(s)

COC-47-2026 (O&M)

Rajesh Garg

...Petitioner(s)

Vs.

Gurjeet Singh Kohli

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Rakesh Bhatia, Advocate
for the petitioner in CR-9284-2025.

Mr. Rajesh Garg, Senior Advocate with
Ms. Neha Matharoo, Advocate
for the respondent in CR-9284-2025.

NIDHI GUPTA, J.

CR-9284-2025

The present revision petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 17.11.2025 (Annexure P-5) passed by the learned Civil Judge (Jr. Divn.) Chandigarh to an extent of imposing of the condition to furnish bank guarantee of the principal



amount of Rs.3,86,400/- on the statement of the counsel for the petitioner without taking any instructions from the petitioner as well as for filing application for leave to defend.

2. Brief facts of the case are that respondent–Rajesh Garg instituted a civil suit under Order XXXVII Rule 2 of the Code of Civil Procedure, 1908, seeking a decree for recovery of ₹4,11,584/- against the present petitioners. Notices were issued to the petitioners/defendants; however, they failed to appear and were proceeded against ex parte vide order dated 15.02.2023. The suit filed by respondent–Rajesh Garg was thereafter decreed ex parte vide judgment and decree dated 25.04.2025. Subsequently, the present petitioners filed an application under Order IX Rule 13 CPC for setting aside the ex parte judgment and decree dated 25.04.2025, and notice of the said application was issued to the respondent. After hearing learned counsel for the respective parties, the learned Civil Judge (Junior Division), Chandigarh, vide order dated 17.11.2025, set aside the ex parte judgment and decree dated 25.04.2025, holding that the petitioner–defendants were not personally served. While passing the impugned order dated 17.11.2025, it was recorded that the petitioners/defendants were willing to furnish a bank guarantee to the tune of ₹3,86,400/-, which was stated to be the principal amount. The matter was thereafter adjourned to 17.12.2025 for filing an application seeking leave to defend and for furnishing the bank guarantee.



3. Learned counsel for the petitioners contends that the impugned order deserves to be set aside, as the condition imposed for furnishing a bank guarantee of the principal amount of ₹3,86,400/- was based solely on the statement made by the counsel for the petitioners without any instructions from the petitioners. It is further submitted that the direction to file an application for leave to contest the suit is also unsustainable, particularly when the suit itself does not fall within the ambit of Order XXXVII Rule 2 of the Code of Civil Procedure, 1908.

4. It is accordingly prayed that the present Revision Petition be allowed and the impugned order be set aside to the aforesaid extent.

5. Learned Senior Counsel for the respondent takes strong exception to the submissions advanced on behalf of the petitioner and submits that suit of the respondent/plaintiff was decreed ex parte vide judgment and decree dated 25.04.2025 (Annexure P3) by the learned Civil Judge (Junior Division), Chandigarh for recovery of Rs.4,11,584/- from the petitioners/defendants along with pendente lite interest @ 9% per annum and @ 6% per annum future interest till its realisation. Upon application dated 01.07.2025, filed by the petitioners under Order 9 Rule 13 CPC, the said ex parte judgment and decree dated 25.04.2025 was set aside as above, however, subject to the furnishing of bank guarantee by the petitioners for an amount of Rs.3,86,400/-.

6. Learned Senior Counsel submits that the argument on behalf of the petitioners that learned counsel representing the petitioners before the



learned trial Court had given the undertaking on behalf of the petitioners to furnish bank guarantee of the principal amount, without instructions from the petitioners, is misconceived as it is established position in law that in a money decree, pre-deposit has to be made. As such, even if no undertaking had been given by the learned counsel representing the petitioners before the trial court, as per law, petitioners would still be required to make a pre-deposit.

7. Ld. Senior counsel further submits that in fact, if a party denies undertaking given by a counsel on a point of law, then action under the Contempt of Courts Act is liable to be taken against the party. In support of his contentions, learned Senior Counsel has relied upon various judgements. It is accordingly prayed that the present revision petition be dismissed.

8. No other argument is made on behalf of the parties. I have heard learned counsel for the parties and perused the case file in detail. I find no merit in the submissions of the petitioners.

9. Present Revision Petition has been filed by the defendants for partly setting aside order dated 17.11.2025 (Annexure P5) passed by learned Civil Judge (Junior Division), Chandigarh whereby application filed by the petitioners under Order 9 Rule 13 CPC for setting aside ex parte judgment and decree dated 25.04.2025 was conditionally allowed as follows: -

“4. After hearing the learned counsel for the applicants and respondent, this Court perused that the exparte Judgment and Decree dated 25.04.2025 was passed in CS 1960/2022 and further perusal of case file reflected that the notice was not personally



served upon the defendants/applicants and notice was published in newspaper Chardikalan and the defendants were proceeded ex parte vide Order dated 15.02.2023. So perusal of Order dated 09.12.2023 reflected that notices issued to defendants were received back with the report that no such person resides on the given address, so, this Court is of the considered view that this is a fit case to set aside the ex parte Judgment and Decree dated 25.04.2025 as the defendants were not personally served and moreover, defendants/applicants are also ready to furnish the bank guarantee to the amount to Rs.3,86,400/- which is alleged principal amount, accordingly, this Court finds it justifiable to allow the present application under Order 9 Rule13 of CPC, subject to furnishing of bank guarantee to the principal amount of Rs.3,86,400/-by the applicant/defendant and in case the defendant/applicant failed to furnish the bank guarantee on the adjourned date of the civil suit then the present application would be treated as dismissed and the Judgment and Decree dated 25.04.2025 would be treated as not set aside. This Court is hereby ordered to restore the Original Civil Suit titled as "Rajesh Garg Vs. M/s Bioaide Corporation and Another" bearing No. 1960 of 2022 on its original number and the present application alongwith record be attached with the main file."

10. By way of the present Revision Petition, the petitioner is seeking setting aside of the aforesaid order to the extent that condition has been imposed upon the petitioner to furnish bank guarantee of the principal amount of Rs.3,86,400/-; as the said undertaking to make the deposit is stated



to have been given by the learned counsel representing the petitioner before the trial court, without instructions from the petitioner.

11. However, Id. counsel for the petitioners is unable to dispute the position in law as stated by learned Senior Counsel for the respondent that in a money decree, a pre-deposit is liable to be made even without an undertaking in this behalf by the counsel representing the said party. It is not disputed that in a money decree, it is a mandatory pre-condition to pre-deposit the amount. In this regard, reference may be made to judgment of the Hon'ble Supreme Court in **"Mahesh Kumar Joshi Vs. Madan Singh Negi" (2015) 2 SCC 254**, where it is held that:-

"10. After due consideration, we are of the view that a debatable issue does arise for consideration and it will be fair and just to give the appellant an opportunity to contest the suit subject to the appellant depositing the entire amount claimed in the suit but without interest or costs i.e. Rs 3 lakhs. In pursuance of the interim order dated 8-3-2013, the appellant claims to have deposited 50% of the decretal amount before the trial court. On depositing the rest of the amount to make up the deficit of Rs 3 lakhs within six weeks from today, the decree will stand set aside and the appellant will be entitled to leave to defend. The deposit will abide by further order of the trial court.

11. We are conscious of the fact that setting aside of ex parte decree under Order 37 Rule 4 of the Code cannot be allowed in routine and special circumstances are required to be established. However, the expression "special circumstances" has to be construed having regard to the individual fact situations. The



court has to balance the equities and while safeguarding the interest of the plaintiff, appropriate conditions can be laid down if the defendant makes out a debatable case which may prime facie show injustice if the ex parte decree was not set aside.

12. As already observed, in the present case, it will be in the interests of justice that the ex parte decree is set aside but the interest of the plaintiff is safeguarded by the deposit of the amount in question by the defendant as a condition precedent for setting aside the decree."

12. As regards, assertion of the petitioner that the said undertaking was given by the Id. Counsel without instructions from the petitioner, the same is also liable to be rejected in view of case Law on this issue. The Hon'ble Supreme Court in **"Balwantbhai Somabhai Bhandari Vs. Hiralal Somabhai contractor (Deceased) represented by LRs & Others"** (2023) 17 SCC 545, has held that: -

"B. Contempt of Court - Civil Contempt - Breach of undertaking - Wilful breach of an assurance in form of an undertaking given by a counsel/advocate on behalf of his client to court, held, would amount to civil contempt" as defined under S. 2(b) of the 1971 Act — Law clarified

XXX XXX XXX

117.1. We hold that an assurance in the form of an undertaking given by a counsel/advocate on behalf of his client to the court; the wilful breach or disobedience of the same would amount to "civil contempt" as defined under Section 2(b) of the 1971 Act.

XXX XXX XXX



117.5. The apology tendered should not be accepted as a matter of course and the court is not bound to accept the same. The apology may be unconditional, unqualified and bona fide, still if the conduct is serious, which has caused damage to the dignity of the institution, the same should not be accepted. There ought not to be a tendency by courts, to show compassion when disobedience of an undertaking or an order is with impunity and with total consciousness."

13. The Hon'ble Supreme Court in **"Indian Medical Association & Another Vs. Union of India & Others"** (2024) 19 SCC 193, has held that:-

"In Balwantbhai Somabhai Bhandari, the Court further observed as under: (SCC pp. 587-88, para 74)

"74. An undertaking or an assurance given by a lawyer based upon which the court decides upon a particular course of action would definitely fall within the confines of "undertaking" as stipulated under Section 2(b) of the Act, 1971 and the breach of which would constitute "civil contempt" As held in M.v. Home Office relied upon by this Court in Rama Narang that if a party or solicitor or counsel on his behalf, so as to convey to the court a firm conviction that an undertaking is being given, that party will be bound and it will be no answer that he did not think that he was giving it or that he was misunderstood. The breach of an undertaking given to a court by a person in a pending proceeding on the faith of which the court sanctions a particular course of action is misconduct amounting to contempt."

14. Our own Court in **"Ankit Rawal Vs. State of Haryana"** CRM-8361-2026 and CRM-9472-2026 in CRM-M-4433-2026, has held that:-

"9. There is another aspect nay vital aspect of the matter which



deserves to be addressed by this Court.

9.1 The judicial process operates on the foundational presumption that statements made by a counsel at the Bar are made with full authority and reflect the true intent of the litigant concerned. This principle ensures that the Court can effectively adjudicate without being compelled to verify the internal communications between a lawyer and the client at every state of proceedings. By executing a Vaqalatnama, a litigant clothes the counsel engaged with express as well as implied authority to plead, act and appear in the best interest of the client. If a litigant were permitted to resile from an adjudication/order made premised upon the statement/argument advanced by his/her counsel, it would render every court proceeding tentative and every judicial order vulnerable to being reopened, simply because the litigant has had a change of heart or has engaged a new counsel. Pertinently, entertaining such a plea would pave the way for a dangerous precedent, effectively allowing a second bite at the apple. It is to be borne in mind that a counsel is an officer of the court and not merely a mechanical agent of the litigant; and owes a duty to the court to ensure the smooth administration of justice. If an act, conduct or concession given by a counsel is not deemed to be authorized by the litigant, the entire adjudicatory framework would stall, as no opposing party or presiding officer could ever rely upon a statement made by a legal representative.

10. Adverting to the factual milieu of the instant case, the attempt by the applicant-petitioner to disavow the withdrawal of petition under the guise of 'lack of instructions', amounts to a procedural heresy striking at the very root of the advocate-client relationship, as also an affront to the adjudicatory process, where an advocate



plays pivotal role of assisting the court. In the earlier round, when this Court expressed a clear disinclination to grant the relief prayed for, the decision of the counsel (appearing for the applicant-petitioner) to withdraw the petition, in order to shield the applicant-petitioner from an adverse order on merit, which might have prejudiced the future remedies, is an exhibit of professional diligence and prudence. To allow the applicant-petitioner, at this stage, to characterise it as an unauthorized act is to undermine the very purpose of legal representation. The averment that the previous counsel was 'not properly instructed', stands in the face of the integrity of the legal profession. The applicant-petitioner having put his signature on the Vaqalatnama, cannot be permitted to act as a stranger to the actions taken by his earlier counsel in open court, especially when such action was intended to mitigate a legal damage. To accept this plea would virtually allow the applicant-petitioner to abuse the process of law by turning this Court into a laboratory for experimental litigation. It is necessary to detest such vexatious and virulent attempts) by unscrupulous elements, aimed at misusing the process of law and Courts. The sanctity of the judicial process will be seriously eroded if such attempts) is not responded with necessary firmness. A litigant who misuses the process of law or take liberties with the truth should be left in no doubt about the consequences to follow. Others should be discouraged not to venture along the same path in the hope or on a misplaced expectation of judicial leniency or indulgence. Exemplary costs, in such a situation are inevitable and necessary, so as to ensure that in litigation, as in the law which is rather practiced in our Country, there is no premium on the truth.



Such misleading pleas which are deficient in any reasonability, have to be construed as trifling with the Courts and the process of justice.

11. In view of the prevenient ratiocination, it is ordained thus:

(i) The application in hand is devoid of merits and is hereby dismissed with costs of ₹20,000/-, which shall be deposited by the petitioner with Chief Judicial Magistrate (CJM), Panipat within four weeks from today. In case such costs are deposited; CJM, Panipat shall have the same remitted to Haryana State Legal Services Authority, Panchkula. In case, the said costs are not deposited by the petitioner as directed for; the CJM, Panipat is directed to intimate the Deputy Commissioner, Panipat who shall have such costs recovered from the petitioner as arrears of land revenue and upon realization thereof, the Deputy Commissioner, Panipat shall have the same submitted to CJM, Panipat, for further remittance thereof to Haryana State Legal Services Authority, Panchkula. A compliance report be sent by CJM, Panipat as also Deputy Commissioner, Panipat to this Court accordingly."

15. Again in **"Bank of Baroda Vs. Sadruddin Hasan Daya & Another"**

(2004) 1 SCC 360, Hon'ble Supreme Court held that:-

"The submission that the Supreme Court having passed a consent decree, the remedy of the petitioner lay in executing the same and there was no occasion for initiating contempt proceedings against the respondents has hardly any merit. The wilful breach of an undertaking given to a court amounts to "civil contempt" within the meaning of Section 2(b) of the Contempt of Courts Act. The respondents having committed breach of the undertaking given



to the Supreme Court in the consent terms they are clearly liable for having committed contempt of court. The fact that the petitioner can execute the decree can have no bearing on the contempt committed by the respondents. The law in England on the subject of breach of undertaking given to court is same. The Supreme Court had put its imprimatur upon the consent terms and made it a decree of the court. The violation or breach of the undertaking which became part of the decree of the court certainly amounts to contempt of court, irrespective of the fact that it is open to the decree-holder to execute the decree. Contempt is a matter between the court and the alleged contemner and is not affected in any manner by the rights or obligations of the parties to the litigation inter se.”

16. The Hon’ble Supreme Court in **“Om Prakash Vs. Suresh Kumar” (2020) 13 SCC 188**, wherein it is held that:-

“- Landlord filing suit for eviction on ground of requirement of premises for reconstruction — During revision before High Court, tenant urging that he was ready and willing to hand over possession of suit premises subject to landlord agreeing to reinduct him as tenant in equivalent area occupied by him — In response thereto, counsel for landlord stating that landlord was not averse to that offer - Said statement of counsel was in relation to commitment of landlord qua the subject-matter of the proceedings in which the counsel was engaged and instructed to appear — No case of landlord that he had expressly instructed his counsel not to make such a statement — Landlord in such a case, held, could not be allowed to resile from the statement made before High Court — High Court rightly



declined to undo the same in review petition filed by landlord for that purpose — Statement of counsel, thus, binding on landlord — Landlord obliged to provide tenant with area which was being used by him earlier — However, in the fact situation of the present case, to do complete justice to parties, an equitable arrangement was provided herein — Under that arrangement, though the area which was to be provided to tenant after reconstruction of building was less than the area which was earlier in his possession, landlord directed to compensate tenant for the said loss of area by paying Rs 74,000 to tenant - Decree passed by High Court modified accordingly, issuing other necessary directions

XXX XXX XXX

High Court in present matter disposing of revision petition, which was filed by tenant, on basis of certain statement made to that court by counsel of landlord — However, subsequently, landlord changing his advocate and filing review petition before High Court, asserting that he had never instructed his counsel to make such statement before court — Conduct of review petitioner, held, liable to be deprecated — Such review petition should not be encouraged and was therefore rightly dismissed - Practice and Procedure - Review/ Recall - Abuse of Process of Court/Law/Fraud on Court — Approbation and reprobation”

17. The Hon’ble Supreme Court in **Patanjali Ayurved Limited through Its Managing Director, Acharya Balkrishna and Baba Ramdev v. Union of India (SC) : Law Finder Doc Id # 2632960**, has held that: *“If an undertaking is being given regardless of the fact that the word "undertaking" has not been*



specifically mentioned, that party will be bound down and it will be no answer that he did not think that he was giving it or that he was misunderstood.” Court proceedings carry sanctity which cannot be discarded at the sweet desire of the applicant.

18. Again, the Hon’ble Supreme Court in a recent judgment in **Lavanya C. v. Vittal Gurudas Pai Since Deseased, (SC) : Law Finder Doc Id # 2701936** has held that *“any undertaking given by counsel, once recorded or incorporated into a court order, remains operative unless promptly challenged or withdrawn. Crucially, the subsequent dismissal of the suit or alleged deficiencies in the property description do not absolve a party from liability if the undertaking is later violated.”* In terms of the above said judgment, the petitioner cannot be permitted to resile and renege from the undertaking given. An undertaking given to a Court is a solemn commitment that carries the same force as a Court order, and a wilful breach thereof, constitutes contempt of court. Subsequent actions, developments, thoughts, and feelings do not absolve a party from an undertaking given during the proceedings.

19. This Court is constrained to observe that it has become an increasingly disturbing trend to resile on statements made and undertakings given before the Court. Such a practice needs to be contained and condemned most strongly as it blasphemies the sanctity of Court proceedings.

20. Furthermore, learned counsel for the petitioner has been unable to make out as to how partial challenge to the impugned order qua only



condition of pre-deposit is maintainable. In effect, the petitioners are stating that insofar as application of the petitioners under Order 9 Rule 13 CPC was allowed, the learned counsel had instructions from the petitioners. However, so far as condition of pre-deposit is imposed the same is without instructions and the petitioners are not bound. Such a position is unacceptable. Needless to say, such a partial reliance upon counsel is unacceptable.

21. Learned counsel for the petitioners is unable to dispute or controvert the above said factual and legal position.
22. Accordingly, present Revision Petition is **dismissed**.

COCP-47-2026

23. Present Contempt Petition has been filed by the decree holder for violation of undertaking given to the Civil Court at Chandigarh on 17.11.2025 (Annexure P1) in Civil Misc.278/2025, “Rajesh Garg Vs. M/s Bioaide Corporation” and also for misusing the process of law.
24. At the very outset, learned Senior Counsel for the petitioner has submitted that the Present Contempt Petition is not pressed.
25. In view of the above, the present Revision Petition is **dismissed**; and Contempt Petition stands **dismissed being not pressed**.
26. Pending application(s) if any also stand(s) disposed of.

07.05.2026
Sunena

(Nidhi Gupta)
Judge

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