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

CR-1081-2025 (O&M)  
Date of decision: 25.03.2025

Manoj Aggarwal

...Petitioner

Versus

Amarjit Singh and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE VIKAS BAHL**

Present: Mr. V.K. Sandhir, Advocate for the petitioner.  
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**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 21.10.2024 passed by the Civil Judge (Junior Division), Amritsar in Civil Suit No.2227/2024 titled as “Amarjit Singh and others Vs. Manoj Aggarwal” whereby an application filed by the petitioner/defendant under Section 151 read with Order 39 Rule 3 CPC for vacation of ex-parte stay granted vide order dated 07.08.2024 has been dismissed.

2. Learned counsel for the petitioner has submitted that a perusal of the plaint would show that along with the suit, five sale deeds were stated to have been attached and provision of Order 39 Rule 3 CPC require that in case of grant of ex-parte injunction, the plaintiffs are supposed to supply the copy of the plaint, the application under Order 39 Rule 1 and 2 CPC, affidavit along with it and the documents on which the plaintiffs rely. It is submitted that all the said documents have not been supplied in the registered cover and thus, there is non-compliance of Order 39 Rule 3 CPC. It is submitted that the interim order was passed on 07.08.2024 and the present petitioner had moved an application under Order 39 Rule 3 CPC for setting aside the said ex-parte order but however, the



trial Court had illegally rejected the said application vide order dated 21.10.2024 which order deserves to be set aside and the present revision petition deserves to be allowed.

3. On a pointed query raised by this Court, learned counsel for the petitioner has submitted that the application under Order 39 Rule 1 and 2 CPC has not been finally decided.

4. A perusal of the impugned order would show that an application filed by the petitioner under Order 39 Rule 3 CPC had been dismissed after taking into consideration the fact that the petitioner had refused to accept the registered cover and even the tracking report with respect to the registered cover was also considered and the said tracking report has been attached to the judicial file with respect to ID RP329411270IN. It was further observed that although, the present petitioner had refused to receive the summons/registered cover from the Court and even his application was silent with respect to the fact that as to whether he ever received the registered cover containing the alleged incomplete documents. It was further observed that the petitioner was also silent about the source of the knowledge regarding the pendency of the case and had only stated that the registered cover attached with the file be opened to see as to whether all the documents had been sent by the plaintiff or not, which was refused by the Court on the ground that it was the duty of the petitioner/defendant to make out a definite plea of non-compliance of Order 39 Rule 3 CPC and he could not expect the Court to start an inquiry on his behalf.

5. A perusal of the application (Annexure P-3) would show that it had not been stated as to whether the petitioner had received the registered cover or not and as to whether he had opened the same or not. The observation in the impugned order to the effect that the registered cover which had been addressed



to the defendant/petitioner had a report of refusal, is not disputed before this Court. It is surprising to note that once the aspect of refusal to receive the registered cover is not disputed and even the fact that registered cover was received back and was attached with the judicial file and also the fact that the said registered cover was not opened by the petitioner, is also not disputed, then, the question of the petitioner, on the date of application, knowing that all the documents along with the plaint are not attached is inconceivable. It is the specific stand of the respondents/plaintiffs that they had complied with the provision of Order 39 Rule 3 CPC and had specifically denied that all the relevant documents had not been sent through registered cover. In the application, it is not even remotely stated as to how the petitioner learnt about the present proceedings. It is apparent that the petitioner is playing hide and seek with the Court inasmuch as after having refused to accept the registered cover and without even mentioning in the application (Annexure P-3) as to from where he learnt about the said proceedings, the petitioner has chosen to file the present frivolous application by making vague averments on surmises and conjectures. The trial Court had thus rightly dismissed the said application under Order 39 Rule 3 CPC.

6. Keeping in view the abovesaid facts and circumstances, the impugned order is upheld and the present revision petition being meritless, deserves to be dismissed and is accordingly, dismissed.

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

25.03.2025

*Pawan*

(VIKAS BAHL)  
JUDGE

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