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

CR-5054-2025

Date of decision: 15.09.2025

Prem Chand Sharma

...Petitioner

Versus

Keshav Kumar and another

...Respondents

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

Present: Mr. Man Mohan, Advocate for the petitioner.

Mr. Tushar Gera, Advocate for respondent No.1.

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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 15.07.2025 (Annexure P-1) passed by the District Judge, Bhiwani in Transfer Application No.TA/25/2025, whereby the transfer application filed by petitioner-defendant No.1 was dismissed.

2. Learned counsel for the petitioner has submitted that the suit which has been filed by respondent No.1 for declaration should be transferred to the Commercial Court as there is commercial dispute involved in the present case as per Section 2(1)(c)(vii) of the Commercial Courts Act, 2015. It is submitted that the application filed by the petitioner for transfer of the same has been dismissed by the trial Court vide order



dated 15.07.2025 which order is illegal and deserves to be set aside. It is prayed that the application filed by the petitioner be allowed and the impugned order be set aside.

3. Learned counsel for respondent No.1 has submitted that as per his instructions respondent No.1 is satisfied either way, whether the case is sent to the Commercial Court or is tried by the Civil Judge (Senior Division), Bhiwani, where the case is presently pending.

4. This Court has heard learned counsel for the petitioner as well as learned counsel for respondent No.1 and has perused the paper book and finds that the impugned order is in accordance with law and deserves to be upheld and the present revision petition being meritless, deserves to be dismissed for the reasons stated hereinafter.

5. Respondent No.1 had filed a suit for declaration to the effect that the plaintiff is exclusive owner in possession of the property bearing Plot No.34, Sector 21, Industrial Area, Bhiwani, Tehsil and District Bhiwani on the basis of registered sale deed dated 08.04.1996. Further prayer for permanent injunction restraining the defendants from interfering into the peaceful ownership and possession of the plaintiff was made. Written statement and counter claim was filed by the present petitioner/defendant No.1.

6. The trial Court, vide order dated 15.07.2025, had rejected the application filed by the petitioner for transfer of the case to the Commercial Court on the ground that the plaintiff and defendant No.1 had led their respective evidence in support of their pleas and in the plaint or in the written statement/counter claim, there is no mention that the suit property is



commercial in nature and is used exclusively in trade and commerce and that the object of constituting the Commercial Courts was that the cases involving commercial disputes are disposed of expeditiously. It was observed that in the entire plaint, there was no reference about the nature of the land in question and that since the plaintiff was seeking declaration on the basis of registered sale deed, the Civil Court had a right to decide the said case. It was also observed that there was no dispute regarding any accounts or any profit taken out from the suit property.

7. The petitioner has relied upon Section 2(1)(c)(vii) of the Commercial Courts Act, 2015 which is reproduced as under:-

*“2. Definitions.—(1) In this Act, unless the context otherwise requires,—*

*xxx xxx*

*(c) “commercial dispute” means a dispute arising out of—*

*xxx xxx*

*(vii) agreements relating to immovable property used exclusively in trade or commerce;*

*xxx xxx”*

A perusal of the above Section would show that under Clause (vii), ‘commercial dispute’ would mean a dispute arising out of agreements relating to immovable property used exclusively in trade or commerce. It is thus, apparent that it is necessary for the parties to plead in their pleadings that the property in question has been used exclusively in trade or commerce. In the present case, as has been fairly stated before this Court and as had been observed in the impugned order, there is no such pleading to the effect that the immovable property is being used exclusively in trade



or commerce. Moreover, it has also been fairly stated that there is no dispute regarding agreement relating to immovable property in the present case. In the said circumstances, it cannot be said that the impugned order dated 15.07.2025 is not in accordance with law and deserves to be set aside. It was also recorded in the impugned order, which also could not be disputed before this Court, that the plaintiff and defendant No.1 had led their respective evidence in support of their case and thus, apparently the suit has also made much progress.

8. The Hon'ble Supreme Court in the case of “*Shalini Shyam Shetty and another Vs. Rajendra Shankar Patil*”, reported as (2010) 8 Supreme Court Cases 329, had observed that the High Courts cannot, at the drop of a hat, in exercise of its power of superintendence under Article 227 of the Constitution, interfere with the orders of tribunals or courts inferior to it. Nor can it, in exercise of this power, act as a court of appeal over the orders of court or tribunal subordinate to it. It was also observed in the said judgment that a statutory amendment with respect to Section 115 of the Civil Procedure Code does not and cannot cut down the ambit of High Court's power under Article 227 but at the same time, it must be remembered that such statutory amendment does not correspondingly expand the High Court's jurisdiction of superintendence under Article 227. The power of interference under this Article is to be kept to the minimum to ensure that the wheel of justice does not come to a halt and the fountain of justice remains pure and unpolluted in order to maintain public confidence in the functioning of the tribunals and courts subordinate to the High Court. It was



also observed that the power under Article 227 may be unfettered but its exercise is subject to high degree of judicial discipline.

9. Keeping in view the above, this Court is of the opinion that the impugned order does not call for any interference by this Court while exercising its powers under Article 227 of the Constitution of India and accordingly accordingly, the impugned order is upheld and the present revision petition being meritless, deserves to be dismissed and is dismissed.

**15.09.2025**

*Pawan*

**(VIKAS BAHL)  
JUDGE**

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

**Whether reportable:- Yes/No**