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AT CHANDIGARH**

**CR No. 5383 of 2025 (O&M)  
DATE OF DECISION: 12.08.2025**

**NAND KUMAR**

**.....PETITIONER**

**Vs.**

**SUMAN AGGARWAL ALIAS SUMAN JINDAL AND OTHERS**

**.....RESPONDENTS**

**CORAM: HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL**

Present: Mr. V.K. Sandhir, Advocate,  
for the petitioner.

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**AMARINDER SINGH GREWAL, J.**

1. Prayer in the present Civil Revision Petition, filed under Article 227 of the Constitution of India, is for setting aside the impugned order dated 28.05.2025, passed by the learned Civil Judge (Junior Division), Amritsar, in Civil Suit No. 2679 of 2019 titled *Suman Aggarwal vs. Ashok Kumar and others*, whereby the application filed by the petitioner-defendant under Order XXX Rule 8 of the Code of Civil Procedure, 1908 (for short, '*the CPC*'), read with Section 151 thereof, seeking striking out of the name of the petitioner-defendant No. 2(b) from the suit, has been dismissed.

2. Brief facts are that respondent No. 1 – Suman Aggarwal alias Suman Jindal, wife of Ravi Kumar – had filed a suit for compensation for malicious prosecution in the sum of ₹10,00,000/–, or such amount as may be evaluated or assessed by the Court, against defendants Ashok Kumar



and others, in which the present petitioner, Nand Kumar (wrongly mentioned as Nand Kishore), son of Mulakh Raj, has been arrayed as defendant No. 2(b). In the said suit, summons were issued to the present petitioner, who thereafter moved an application under Order XXX Rule 8 of the CPC, read with Section 151 thereof, for appearance under protest and for striking out his name from the array of defendants.

3. The said application was contested by respondent No. 1—plaintiff and was ultimately dismissed by the learned Civil Judge (Junior Division), Amritsar, vide order dated 28.05.2025, which is now under challenge.

4. Learned counsel for the petitioner has submitted that at no point of time was defendant No. 2(b) – Nand Kumar— a partner of defendant No. 2, M/s Mulakh Raj and Sons, and, as such, he is not liable for any compensation. To support his contention, counsel for the petitioner drew attention to Annexures P-3 and P-4 – the first partnership deed dated 01.04.2007, executed between Sh. Ramesh Arora, son of Mulakh Raj, and Smt. Neelam Arora, wife of Sh. Sanjiv Kumar Arora (first party), and Kunal Arora, son of Sanjiv Kumar Arora (second party); and the second partnership deed dated 01.04.2019, executed between Smt. Neelam Arora (first party) and Sh. Kunal Arora (second party). It is submitted that the petitioner was never a partner in either of the deeds and, therefore, the application under Order XXX Rule 8 CPC ought to have been allowed. A prayer was made that the order dated 28.05.2025 be set aside and the petitioner's name be struck off from the array of parties.



5. In view of the order proposed to be passed, notice to the respondents is not being issued, as it would delay the proceedings and entail additional expense to them.

6. A plain reading of Order XXX Rule 8(1) of the CPC shows that any person served with summons as a partner under Rule 3 may enter an appearance under protest, denying that he was a partner at any material time. Clause (3) further provides that if the Court holds that he was a partner at the material time, such finding shall not preclude him from filing a defence denying the liability of the firm in respect of the claim.

7. Coming to the facts of the present case, respondent No. 1 contended before the trial Court that the petitioner was indeed a partner of M/s Mulakh Raj and Sons. The trial Court, while dismissing the application under Order XXX Rule 8 CPC, held that the question whether the petitioner was a partner, whether he is liable for compensation, and whether the partnership deeds relied upon by him are genuine, are all matters to be determined at trial on the basis of evidence.

8. This Court is of the view that the language of Order XXX Rule 8(1) and (3) of the CPC makes it clear that even where an appearance is entered under protest, the issue of partnership is a matter for adjudication. Since the suit is still at an initial stage and both parties have to lead their respective evidences, the learned trial Court has rightly dismissed the petitioner's application.

9. Accordingly, this Court finds no merit in the prayer for setting aside the order dated 28.05.2025 passed by the learned Civil Judge (Junior Division), Amritsar.



10. Finding no illegality in the impugned order, the present revision petition, being devoid of merit, is accordingly dismissed.

11. Pending miscellaneous application(s), if any, shall also stand disposed of.

**AUGUST 12, 2025**  
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**(AMARINDER SINGH GREWAL)**  
**JUDGE**

Whether Speaking	Yes/No
Whether Reportable	Yes/No