

2025:PHHC:069861



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-3101-2025 (O&M)

Date of Decision: 22.05.2025

MADHVINDER SINGH AND ANOTHER

. . . . PETITIONERS

Vs.

MANAVINDER SINGH AND ANOTHER

. . . . RESPONDENTS

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Sanjiv Gupta, Advocate, for the petitioners.

Mr. Gaurav Chopra, Sr. Advocate, with
Mr. Harpreet Multani, Advocate, for
Mr. Anmay Chopra, for the respondent-caveator.

DEEPAK GUPTA, J.

Suit for declaration was filed by two plaintiffs (*respondents herein*) and along with the suit, they moved an application under Section 92 of the CPC (*Annexure P2*) seeking leave of the court to institute the suit, claiming that they were having direct interest in the subject property belonging to a trust namely 'Raghunath Mandir Committee Trust'. Vide order dated 11.02.2022, permission was granted by the Court of learned Civil Judge (Jr. Divn.), Fazilka. After putting in appearance, defendants (*petitioners herein*) moved an application for revocation of the leave to file the suit under Section 92 CPC, which has been declined by the Court by way of the impugned order dated 24.04.2025 (*Annexure P5*) by observing that the Court cannot review the previous order passed by its predecessor.

2. Assailing the aforesaid order, the defendants of the case are before this Court.

3. It is contended by learned counsel that though it is not mandatory to serve a notice to the defendants before granting leave to file the suit under Section 92 CPC, but as a matter of caution, the Court should

normally give notice to the defendants before granting any such leave. At the same time, the grant of leave cannot be regarded as defeating or even seriously prejudicing the rights of the proposed defendants, as it is open to the defendants to file an application for revocation of the leave, which should be considered by the Court on its merits. Learned counsel has referred to ***Vidyodaya Trust Vs. Mohan Prasad R & Others, 2008 (2) RCR (Civil) 229.***

4. Mr. Gaurav Chopra, Sr. Advocate, who has put in appearance on behalf of the respondents-plaintiffs as Caveators, does not dispute the abovesaid legal position. It has been conceded that even if the leave under Section 92 CPC was granted to file the suit, it is open to the Court to deal with an application for revocation and pass necessary orders on merits. He also cited ***B.S. Adityan and others Vs. B Ramachandran Adityan and others, 2004 (3) RCR (Civil) 216,*** in this regard.

5. However, learned Senior Advocate for the respondents opposes the revision on the ground that petitioner should also have assailed the order dated 11.02.2022 passed by the trial Court, whereby leave was granted under Section 92 CPC to the plaintiffs to file the suit.

6. This Court does not find merit in the above contention raised by learned Senior Counsel for the respondents-caveators.

7. As defendants are within their rights to seek revocation of the leave granted by the trial Court to the plaintiffs, so Court is required to decide the said application for revocation of leave on merits. In this case, the application moved by the defendants-petitioners for revocation has not been considered on merits and as such, they were not required to assail the order dated 11.02.2022 before this Court.

8. Consequently, the present revision is hereby accepted. Order dated 24.04.2025 (*Annexure P5*) is hereby set aside. The matter is hereby remanded back to the trial Court with the direction to consider the application (*Annexure P3*) as moved by the defendants-petitioners, for

revocation of the permission granted to the plaintiffs to institute the suit under Section 92 CPC, on its own merits.

9. It is informed that the next date of hearing before the trial Court is 27.05.2025. As requested by counsel for both the sides, it is ordered that the trial Court shall make every possible endeavor to dispose of the application (*Annexure P3*), on or before 31.07.2025.

Disposed of.

22.05.2025

Vivek

**(DEEPAK GUPTA)
JUDGE**

<i>Whether speaking/reasoned?</i>	Yes
<i>Whether reportable?</i>	No