



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

119

CR-931-2025

Decided on:28.04.2025

Narinder Singh

... Petitioner

Versus

Kamaljit Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL**PRESENT:** Mr. Ashok Bhardwaj, Advocate
for the petitioner.Mr. Kulwinder Singh, Advocate for
Mr. S. S. Sarwara, Advocate
for the respondent.

VIKAS BAHL, J.(ORAL)

1. The present Civil Revision Petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 03.02.2025 (Annexure P-9) passed by the Additional District Judge, SAS Nagar, Mohali as well as the order dated 08.10.2024 (Annexure P-6) passed by the Civil Judge (Sr. Divn.), SAS Nagar, Mohali vide which the application under Order 9 Rule 13 CPC for setting aside the *ex parte* order and the judgment and decree dated 31.07.2023 have been dismissed.

2. On 14.02.2025, this Court had been pleased to pass the following order:-

*“Present: Mr. Ashok Bhardwaj, Advocate,
for the petitioner.*

*Inter alia, contends that the petitioner has tangible
defence in the present case and has submitted that in order*



to show his bona fide, the petitioner is ready to pay Rs.2,90,000/- on account of principal and further an amount of Rs.50,000/- on account of interest, thus, total amount comes to Rs.3,40,000/-. It is further submitted that the respondent-plaintiff had claimed an amount of Rs.3,20,000/-, out of which, Rs.30,000/- had been paid by the petitioner in the proceedings under Section 138 of the NI Act. It is stated that the said amount which the petitioner is willing to pay be paid, to the respondent after taking surety from him for the said amount and the petitioner be permitted to defend the suit.

Notice of motion for 22.04.2025.

Notice re: stay as well.

Liberty is granted to the petitioner to serve the respondent through dasti process as well as through the counsel appearing for him before the Executing Court.

Petitioner is directed to bring a demand draft of an amount of Rs.3,40,000/- in the name of the respondent on the next date of hearing.

It is made clear that in case the said demand draft prepared in the name of the respondent is not produced by the petitioner on the next date of hearing, then, the present petition would be liable to be dismissed.

To be taken in the urgent list.

February 14,2025”

3. On 22.04.2025, this Court had been pleased to pass the following order:-

*“Present: Mr. Ashok Bhardwaj, Advocate,
for the petitioner.*

*Mr. S. S. Sarwara, Advocate
for the respondent.*



Learned counsel for the petitioner has submitted that in pursuance of the last order, he has got a demand draft for an amount of Rs.3,40,000/- in the name of the respondent.

Learned counsel for the respondent prays for an adjournment to get instructions in the matter.

Adjourned to 28.04.2025.

To be shown in the urgent list

April 22,2025”

4. Learned counsel for the petitioner has submitted that in pursuance of the last two orders, the petitioner has handed over the demand draft for an amount of Rs.3,40,000/- in the name of the respondent, which fact has been re-affirmed by the learned counsel for the respondent. It is further submitted that in view of the same, the impugned orders be set aside and the *ex parte* proceedings against the petitioner be also set aside and the petitioner be given the opportunity to lead defence evidence.

5. Learned counsel for the respondent has submitted that in case, an opportunity is to be given to the petitioner to lead evidence, then only one effective opportunity be given to him and the respondent be also given right to rebut the evidence and the case be decided on merits. It is submitted that however, in case, the suit of the plaintiff is decreed on merits for an amount higher than the amount which has been paid to the respondent, then he be granted liberty to execute the decree with respect to the balance amount.



6. During the course of the arguments, a consensus has been arrived at between the learned counsel for the petitioner as well as counsel for the respondent and in view of the said consensus and the fair stand taken on behalf of the learned counsel for the petitioner as well as counsel for the respondent, the present revision petition is disposed of with the following observations/directions:-

(i) The order dated 03.02.2025 (Annexure P-9) as well as the order dated 08.10.2024 (Annexure P-6) vide which the application filed by the petitioner under Order 9 Rule 13 had been dismissed and the appeal therefrom had also been dismissed are set aside.

(ii) The judgment dated 31.07.2023 being *ex parte* judgment is set aside and the *ex parte* proceedings against the petitioner are also set aside, subject to the petitioner only being granted one effective opportunity to complete his entire evidence. The parties alongwith their counsel would appear before the trial Court on 08.05.2025, on which date the trial Court would give a date to the petitioner to conclude his entire evidence on his own responsibility. Only one effective opportunity would be given to the petitioner to complete his evidence at his own responsibility.

(iii) The respondent-plaintiff would be given two effective opportunities to rebut the evidence led by the



petitioner. The respondent-plaintiff would also give surety for the amount of Rs.3,40,000/- already received by him in the present case.

(iv) In case, the suit is decreed after hearing the parties, on merits and for an amount more than the amount which has been paid by the petitioner to the respondent, then it would be open to the respondent to seek execution of the decree with respect to the remaining amount. In case, however, the suit is dismissed or is partially decreed for an amount lesser than the amount which the petitioner has paid to the respondent, then the respondent would return the proportionate amount to the petitioner in accordance with the judgment of the trial Court.

28.04.2025

Mehak

*Whether reasoned/speaking?
Whether reportable?*

*Yes/~~No~~
Yes/~~No~~*

**(VIKAS BAHL)
JUDGE**