



112

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

CM-17233-CII-2025 in/and
CR-7769-2018 (O&M)
Date of decision: 04.09.2025

Karan Singh and another

...Petitioners

Versus

M/s Rajasthan Poly Pack and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Vineet Chaudhary, Advocate for the petitioners.

Mr. Aman Bahri, Advocate for respondent No.1.

VIKAS BAHL, J. (ORAL)

CM-17233-CII-2025

1. This is an application filed under Order 9 Rule 9 read with Section 151 CPC for restoration of the case and recalling of order dated 18.08.2025.

2. For the reasons stated in the application which is duly supported by an affidavit, the present application is allowed and order dated 18.08.2025 is recalled and the main case is restored to its original number and is taken on Board today itself for final disposal.

Main case

1. This is a revision petition filed under Article 227 of the Constitution of India for setting aside the impugned order dated 24.08.2018



(Annexure P-5) passed by the Additional Civil Judge (Senior Division), Chandigarh vide which an application filed under Order 1 Rule 10 of CPC for deleting the names of petitioners/defendant Nos.2 and 3 from the array of parties had been dismissed.

ARGUMENTS ON BEHALF OF THE PETITIONERS:-

2. Learned counsel for the petitioners has submitted that the petitioners are impleaded as defendant No.2 and 3 in the main suit and are only Directors of the company (defendant No.1) and cannot be held liable for the amount which is due from the company-defendant No.1. It is further submitted that defendant No.1 has been made party through its Managing Director Arti Singh and thus, the present petitioners are neither necessary nor proper parties and the application filed by the petitioners for deleting their names under Order 1 Rule 10 read with Section 151 CPC deserves to be allowed and the impugned order, vide which, the said application has been dismissed, deserves to be set aside.

ARGUMENTS ON BEHALF OF RESPONDENT NO.1:-

3. Learned counsel for respondent No.1 has opposed the present revision petition and has submitted that there are specific averments made against the petitioners in the suit and the plea raised in the application that there are no averments made against them is incorrect. It is further submitted that the evidence of the parties have been led and the case is now fixed for final arguments. It is further submitted that the plaintiff is dominus litis and he has specifically made averments against all the three defendants and even prayer which has been made is for recovery of the money from all the three defendants. It is argued that several documents have also been



produced on record to show that the present petitioners are also dealing with respondent No.1-plaintiff. It is thus, prayed that the present revision petition be dismissed and impugned order be upheld.

ANALYSIS AND FINDINGS:-

4. This Court has heard learned counsel for the parties and has perused the paper book and is of the opinion 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-plaintiff had filed a suit for recovery of Rs.48,00,591/- as principal amount along with interest of Rs.4,32,000/- @ 9% per annum. In the said suit, there were three defendants. Defendant No.1 being a company and defendant Nos.2 and 3 being Directors of the said company. It is the defendant Nos.2 and 3 who are petitioners before this Court. A perusal of the plaint (Annexure P-1) would show that specific averments have been made by respondent No.1-plaintiff against each of the defendants including petitioners/defendant Nos.2 and 3 and in para 2 of the plaint, it had been stated that the company, through its Directors, which included the present petitioners, were regular customers of the plaintiff and they used to purchase plastic granules and scrap from the plaintiff from time to time. It was further pleaded in the subsequent paragraphs that the defendants, which included the petitioners, purchased the material and bills were issued in the name of defendant-company as per the instructions of the defendants and defendants used to make payment by way of RTGS. The details of the amount outstanding was also given and several documents



which included copy of the bills, ledger maintained by the plaintiff in the ordinary course of the business, income tax returns and balance sheet were also annexed along with plaint. In the relief column, following prayers were made:-

*“It is, therefore, respectfully prayed that decree for the recovery of Rs. 48,00,591/-(Rs. Forty Eight Lac Five Hundred and Ninety one) as principle amount alongwith interest of Rs. 4,32,000/-(Four Lac Thirty Two Thousand) @ 9% p.a, w.e.f 01.04.2016 to 15.03.2017 total amounting to Rs.52,32,591/-(Fifty Two Lac thirty two thousand Five hundred and Ninety one) **may kindly be passed in favour of the plaintiff and against the defendants with costs.***

*It is further prayed that the future interest @ 12% p.a. from the date of filing of the suit till its realization may also be granted in favour of the plaintiff and **against the defendants.***

*Any other relief which this Hon'ble Court may deem fit be also granted in favour of the plaintiff and **against the defendants** in the interest of justice.”*

A perusal of the above would show that recovery of the amount was sought from all the defendants, which included the present petitioners. The trial Court vide impugned order had rejected the application under Order 1 Rule 10 read with Section 151 CPC for deletion of the names of the petitioners by observing that at any rate, the petitioners were proper parties and the said fact was apparent from the averments made in the plaint and the replication. It was further observed that the question as to whether the liability is to be fastened upon the petitioners or not is the question which is to be determined after the evidence is led by both the parties and thus, the said application, apart from being premature, was not meritorious.



6. The order passed by the trial Court is in accordance with law and deserves to be upheld. It is a matter of settled law that the plaintiff is dominus litis and plaintiff has a right to implead all the persons who are either necessary parties or proper parties and against whom relief is being sought. In the present case, as is apparent from the plaint, respondent No.1-plaintiff is seeking relief against all the three defendants, including the present petitioners. Specific averments have been made with respect to all the three defendants. The question as to whether ultimately the petitioners would be liable to pay money or not is to be decided after the entire evidence is led and all the documents produced are considered. It is not in dispute that the entire evidence has been led and the case is now fixed for arguments. Moreover, at any rate, it cannot be said that the present petitioners are not even proper parties in the suit.

7. 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.

8. 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, the impugned order is upheld and the present revision petition being meritless, deserves to be dismissed and is dismissed.

9. It would be relevant to note that this Court has not opined on the merits of the case and it would be open to all the parties concerned to raise all the pleas before the trial Court at the time of final arguments including the plea as to whether the petitioners-defendant Nos.2 and 3 are liable to pay any money or not. The trial Court would decide the case independently after taking into consideration the arguments raised by all the parties concerned and the evidence led by the parties.

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

04.09.2025
Pawan

(VIKAS BAHL)
JUDGE

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

Whether reportable:- **Yes/No**