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

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Date of decision: 03.09.2026

Rajat Kumar and another

....Petitioners

Vs.

Gurinder Kaur through General Power of Attorney

....Respondent

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Tejas Bansal, Advocate
for the petitioner.

HARSH BUNGER J. (Oral)

1. Present revision petition filed, *under Article 227 of Constitution of India*, for setting aside the order dated 06.07.2026 (Annexure P-1) passed by the Learned Civil Judge (Senior Division), Sirsa, to the limited extent whereby the learned Trial Court, while allowing the petitioners' application under Order 37 Rule 3 CPC, for leave to defend, has made the said leave subject to the condition that the petitioners shall furnish a bank guarantee or fixed deposit in the sum of Rs. 16,53,428/-, being the entire principal sum claimed in the suit.

2. Briefly, the respondent/plaintiff (Gurinder Kaur) filed a suit under Order 37 of CPC for recovery of Rs. 17,19,565/- (Rs. 16,53,428/- as principal amount and Rs. 66,137/- as interest calculated with effect from 26.03.2025 upto 24.05.2025 calculated @ 2% per month) along with pendente lite and future interest on the basis of cheque issued by the present

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petitioner No.1 (Rajat Kumar) being proprietor of present petitioner No. 2 i.e. M/s Rihaan Vihaan Transport Company for and against the purchase of diesel, lubricants, etc. in favour of the respondent/plaintiff in discharge of his liability.

3. It appears that the present petitioners were proceeded against ex-parte in the aforesaid suit on 03.11.2025. However, subsequently, upon an application being filed by the petitioners for setting aside the ex-parte proceedings, the learned Trial Court set aside the ex-parte order dated 03.11.2025. On 17.04.2026, the petitioners filed an application (Annexure P-12) under Order 37 Rule 3 CPC seeking unconditional leave to defend the suit, *inter alia*, on the following grounds:-

- (i) that the respondent had taken several blank signed cheques by way of security and had misused the same;
- (ii) that the accounts of the father and the brother of petitioner No. 1 had wrongly been merged into the account of the petitioners;
- (iii) that an earlier blank signed cheque, being cheque No. 000019, had similarly been filled in for Rs. 17,87,745/- and, on the matter being taken up before a panchayat, the respondent had assured that it would not be misused; and
- (iv) that payments of Rs. 1,50,000/- made on 03.02.2025 and Rs. 2,00,000/- made on 05.03.2025 had not been credited in the respondent's books of account.

3.1 The aforesaid application filed by the petitioners was opposed by respondent/plaintiff by filing its reply (Annexure P-13).

3.2 The Learned Trial Court, upon consideration of the application (Annexure P-12), allowed the same vide the impugned order dated 06.07.2026 (Annexure P-1), whereby leave to defend has been granted to the

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petitioners; however, subject to the condition that the petitioners shall furnish a bank guarantee or fixed deposit in the sum of Rs. 16,53,428/-, on or before 21.08.2026.

4. In the aforementioned circumstances, the petitioners have preferred the present civil revision petition before this Court.

5. In para No.2 of the present civil revision petition, following averments has been made:-

“2. That the present petition is confined only to the aforesaid condition. The petitioners are not, by the present petition, questioning the grant of leave to defend, which has rightly been granted in their favour.”

6. I have heard learned counsel appearing for the petitioner and perused the paperbook with his able assistance.

7. In the present case, the respondent/plaintiff has filed a suit under Order 37 CPC seeking recovery of Rs. 17,19,535/- on the basis of a cheque issued by the present petitioners to the respondent/plaintiff on account of purchase of diesel, lubricants, etc. (as detailed in the plaint).

7.1 In the aforesaid suit, the present petitioners appeared and filed an application under Order 37 Rule 3 CPC seeking leave to defend, which has been granted by the learned Trial Court vide impugned order dated 06.07.2026 (Annexure P-1), however, subject to the condition that the petitioners shall furnish a bank guarantee or fixed deposit in the sum of Rs. 16,53,428/- on or before 21.08.2026. The relevant extract of the impugned order dated 06.07.2026 (Annexure P-1) reads as under:

“5. After considering the submissions made by both the counsel for the parties, since the defendants themselves



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admitted business dealings with the plaintiff and admitted that diesel/petrol/ lubricants were being purchased from the plaintiff from time to time on cash and credit basis. Therefore, the underlying commercial relationship between the parties stands admitted. Prima facie, the material produced by the plaintiff shows supply of petrol/diesel against acknowledgments in the ordinary course of business, maintenance of a running ledger/account in respect of those transactions and thereafter issuance of the cheque in question for the amount reflected in the said business record. The plaintiff has also placed on record the WhatsApp group chat between the plaintiff's representative and the defendants' side, including the sons and father supported by an affidavit/certificate under Section 65B of the Indian Evidence Act (Section 63 of BSA), wherein details of supplies, amounts and vehicle numbers were intimated and the same have not been specifically denied by the defendants. Thus, the plaintiff's claim is supported by a clear commercial chain, namely acknowledged supplies, electronic communication, ledger/account entries and the cheque amount corresponding thereto. The contention that cheque in question was only a blank security cheque is unsupported by any material. No written demand for return of the alleged security cheques, no written protest, no stop-payment of any instruction, no complaint and no settlement document have been brought on record. The contention regarding the alleged earlier misuse of cheque No.000019 and alleged intervention of a panchayat is equally unsupported. There is no panchayat writing, no complaint, no notice, no reply and no affidavit of any independent person. The alleged payments of Rs. 1,50,000/-and Rs.2,00,000/- are matters capable of exact documentary proof through bank statements, card statements, transaction references or account confirmations, yet no such material has been filed, which was to be the best available prima facie



evidence to prove the prima facie defence by the defendants. Further, the contention of learned counsel for the defendant that the plaintiff has wrongly mixed the account of defendant No.1 with the accounts of his brother and father is also vague and unsupported by any separate books of account, reconciliation statement, invoice by segregation of tax/account record.

6. *Thus, the leave application is founded upon bald assertions. Mere use of expressions such as security cheque, manipulated accounts, etc. does not create a substantial defence or genuine triable issue in the absence of supporting material, where the prima facie, the plaintiff firm supplied petrol/diesel against acknowledgments, the running ledger/account reflects the liability arising therefrom, the WhatsApp group chat supported by Section 65B certificate (Section 63 BSA) corroborates the supplies and transaction details, thereafter the cheque in question was stated to be issued for the corresponding amount shown in the business record. But still is not a stage where the defendant should not have any opportunity to prove his version because as per well settled case law titled as **B.L. Kashyap & Sons Ltd. Vs. JMS Steels & Power Corporation Court: Supreme Court of India 2022 LiveLaw (SC) 59**, in which it is held that in Order 37 summary suits, grant of leave to defend is ordinarily the rule and denial is the exception, but the defendant must still disclose a genuine and substantial defence. Bald assertions without supporting material do not entitle a defendant to unconditional leave, where defence is weak, leave may be declined or strictly controlled.*

7. *As a consequence of the above discussions, the application in hand is hereby allowed and leave to defend is hereby granted to the applicants-defendants, subject to furnishing bank guarantee or fixed deposit in the sum of*



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₹16,53,428/- on or before 21.8.2026. The application stands disposed of accordingly.”

7.2 A bare perusal of the above-extracted order dated 06.07.2026 (Annexure P-1) would show, although the present petitioners had founded their application for leave to defend on bald assertions without demonstrating a substantial defence or genuine triable issue; the learned Trial Court still granted leave to defend, considering the settled law that grant of leave to defend is ordinarily the rule and denial thereof is an exception. At the same time, the learned Trial Court has observed that the bald assertions of the petitioners, without any supporting material do not entitle them to unconditional leave. Accordingly, leave to defend has been granted subject to the petitioners furnishing a bank guarantee or fixed deposit in the sum of Rs. 16,53,428/- on or before 21.08.2026.

8. Apparently, the present civil revision petition has been filed on 31.08.2026 i.e. beyond the period of 21.08.2026, up to which the petitioners were called upon to furnish a bank guarantee or fixed deposit.

9. Be that as it may, the principles on which application for leave to defend has to be examined are laid down in the celebrated judgment of the Apex Court in the case of **“Mechalec Engineering and Manufacturer v. Basic Equipment Corporation”, AIR 1977 Supreme Court 577**. Following principles were laid down in this case :-

- (a) If the defendant satisfies the Court that he has a good defence to the claim on its merits the plaintiff is not entitled to leave to sign judgment and the defendant is entitled to unconditional leave to defend.



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- (b) If the defendant raises a triable issue indicating that he has a fair or bona fide or reasonable defence although not a positively good defence the plaintiff is not entitled to sign judgment and the defendant is entitled to unconditional leave to defend.
- (c) If the defendant discloses such facts as may be deemed sufficient to entitle him to defend that is to say, although the affidavit does not positively and immediately make it clear that he had a defence, yet shows such a state of facts as leads to the inference that at the trial of the action he may be able to establish a defence to the plaintiff's claim the plaintiff is not entitled to judgment and the defendant is entitled to leave to defend but in such a case the Court may in its discretion impose conditions as to the time or mode of trial but not as to payment into Court or furnishing security.
- (d) If the defendant has no defence or the defence set up is illusory or sham or practically moonshine then ordinarily the plaintiff is entitled to have to sign judgment and the defendant is not entitled to leave to defend.
- (e) If the defendant has no defence or the defence is illusory or sham or practically moonshine then although ordinarily the plaintiff is entitled to leave to sign judgment, the Court may protect the plaintiff by only allowing the defence to proceed if the amount claimed is paid into Court or otherwise secured and give leave to the defendant on such condition, and thereby show mercy to the defendant by enabling him to try to prove a defence.

9.1 Hon'ble Apex Court in case of ***"M/s. V.K. Enterprises v. M/s. Shiva Steels"***, 2010(4) RCR (civil) 365; observed as under:-

"8. Order 37 C.P.C. has been included in the Civil Procedure Code in order to allow a person, who has a clear and



undisputed claim in respect of any monetary dues, to recover the dues quickly by a summary procedure instead of taking the long route of a regular suit. The Courts have consistently held that if the affidavit filed by the defendant discloses a triable issue that is at least plausible, leave should be granted, but when the defence raised appears to be moonshine and sham, unconditional leave to defend cannot be granted. What is required to be examined for grant of leave is whether the defence taken in the application under Order 37 Rule 3 C.P.C. makes out a case, which if established, would be a plausible defence in a regular suit. In matters relating to dishonour of cheques, the aforesaid principle becomes more relevant as the cheques are issued normally for liquidation of dues which are admitted. In the instant case, the defence would have been plausible had it not been for the fact that the allegations relating to the interpolation of the cheque is without substance and the ledger accounts relating to the dues, clearly demonstrated that such dues had been settled between the parties. Moreover, the issuance of the cheque had never been disputed on behalf of the Petitioner whose case was that the same had been given on account of security and not for presentation, but an attempt had been made to misuse the same by dishonest means.

9. *Against such cogent evidence produced by the plaintiff/respondent, there is only an oral denial which is not supported by any corroborative evidence from the side of the Petitioner. On the other hand, the ledger book maintained by the Respondent and settled by the Petitioner had been produced on behalf of the Respondent in order to prove the transactions in respect of which the cheque in question had been issued by the Petitioner.*

10. *In our view, the defence raised by the Petitioner does not make out any triable issue and the High Court, has dealt with*



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the matter correctly and has justifiably rejected the Petitioner's application under Order 37 Rule 3 C.P.C. and the same does not call for interference by this Court. The Special Leave Petition is, therefore, dismissed, but without any order as to costs.”

10. Having considered the matter in the light of aforementioned judicial pronouncement, I am of considered view, that the learned Trial Court, upon appreciation of the matter before it, has rightly granted conditional leave to defend in terms of provisions contained in Order 37 Rule 3(5) CPC, which clearly permits the learned Trial Court to grant leave to defend either unconditionally or upon such terms as may appear to the Court to be just.

11. In view of the above discussion, I see no compelling reason which may warrant interference by this Court in the present proceedings. Resultantly, the present civil revision petition fails and same is accordingly, ***dismissed.***

12. All the pending application(s), if any, shall also stand closed.

(HARSH BUNGER)
JUDGE

03.09.2026

Ankit

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No