

CR-5726-2025(O&M) 1

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

1. CR-5726-2025(O&M)

Bikramjit Singh

... Petitioner

Versus

Varun Kumar and another

... Respondents

2. CR-5733-2025(O&M)

Bikramjit Singh

... Petitioner

Versus

Varun Kumar and others

... Respondents

Date of decision : 29.09.2025

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Ajay Pal Singh Rehan, Advocate and
Mr. Sandeep Godara, Advocate
for the petitioner.

VIKAS BAHL, J.(ORAL)

CM-19787-CII-2025

1. This is an application under Section 151 CPC for placing on
record the zimni orders as Annexure P-12.

2. Application is allowed. Annexure P-12 is taken on record.



CM-19788-CII-2025

1. This is an application under Section 151 CPC for the revival of the revision petition which was disposed of.
2. For the reasons stated in the application which is supported by an affidavit, the application is allowed and the order dated 25.08.2025 is recalled and the main revision petition is ordered to be restored to its original number.

Main case(s)

1. The present order would dispose of two revision petitions. The first revision petition i.e., CR-5726-2025 has been filed by Bikramjit Singh against Varun Kumar and another and in the said revision petition challenge has been made to order dated 25.07.2015 (Annexure P-10) passed by the Civil Judge (Sr.Div.), Gurdaspur, in Civil Suit no.CS-867 of 2018 (Annexure P-1) instituted on 11.07.2018 vide which the application for amendment of the written statement filed by the petitioner-defendant has been dismissed. The second revision petition i.e., CR-5733-2025 has been filed by Bikramjit Singh (defendant no.1) against Varun Kumar, Manika and another in which challenge is to the order dated 25.07.2025 (Annexure P-10) passed by the Civil Judge (Sr.Div.), Gurdaspur, in Civil Suit no.CS-868 of 2018 (Annexure P-1) instituted on 11.07.2018 vide which the application for amendment of the written statement filed by the petitioner-defendant has been dismissed.



2. Learned counsel for the petitioner has very fairly submitted that in both the suits, the defendants are Bikramjit Singh and Baljit Singh and the present petitioner is defendant no.1. It is submitted that plaintiff no.1 in both the suits is Varun Kumar and in the suit which is subject matter of CR-5733-2025 i.e., plaintiff no.2 is Manika. It is submitted that both the suits have been instituted on the same date and are being heard on the same date and both the suits are for possession by way of specific performance of agreement to sell. It is submitted that in CR-5726-2025, the agreement to sell regarding which the suit has been filed is dated 01.12.2014 and is with respect to 8 kanals of land, whereas in the suit which is subject matter of CR-5733-2025 the agreement to sell of which specific performance is sought is dated 18.10.2016 and the land involved is 18 kanal 9 marlas. It is fairly submitted that the facts for the purpose of present revision petitions can be considered from CR-5726-2025. Accordingly, the facts are being taken from CR-5726-2025.

3. It has not been disputed before this Court that two suits were filed for specific performance of two agreements by respondent no.1- plaintiff Varun Kumar and the same had been filed in the year 2018. The zimni orders have been annexed as Anenxure P-12 by the petitioner. A perusal of the same would show that every endeavour has been made by defendants no.1 and 2 to delay the proceedings in the suit filed by the plaintiff for possession by way of specific performance. On 06.08.2018, both the defendants had been served and they had appeared through their



counsel Sh. Raman Kumar, which fact is apparent from the zimni order dated 06.08.2018 which is reproduced hereinbelow:-

“Present Shri Rajiv Bhatia, Advocate, Ld. Counsel for plaintiff.

Shri Raman Kumar, Advocate, has filed power-of-attorney on behalf of defendants no. 1 & 2. Service is complete. Now to come upon 19.09.2018 for filing written statement.

Date of Order: 06.08.2018

*Gurpreet Kaur,
CJJD/GSP*

Next Date: 19.09.2018

UID No. PB0471

Purpose:_____

Note: Dictated directly on computer”

4. The case was adjourned to 19.09.2018 for filing written statement and similarly on 03.11.2018 the case was adjourned to 03.12.2018 for filing written statement, subject to last and final opportunity. However, on 03.12.2018, the counsel for the defendants, which included the present petitioner i.e., defendant no.1 moved an application under Section 151 CPC for staying the proceedings and several dates were given in the same and the said application under Section 151 CPC was finally decided on 25.11.2021. The said application was allowed and the suit was dismissed as not maintainable. The zimni order dated 24.11.2021 showing the presence of said Raman Kumar, Advocate is reproduced hereinbelow:-

*“Present: Sh. Rajiv Bhatia Advocate for plaintiff.
Sh.Raman Kumar Advocate for defendant.*



Arguments again not addressed. Adjournment requested. Adjourned to 25.11.2021 for consideration on the application under Section 151 CPC.

Date of Order (Madan Lal)

Dated: 24.11.2021 ACJM/CJSD Gurdaspur/UID No. PB0200

5. Even a perusal of the order dated 25.11.2021, which has also been annexed with the main petition as Annexure P-2, would show that the said application was argued by Sh. Raman Kumar, Advocate, counsel for the defendants.

6. Respondent no.1-plaintiff had filed CR-481-2022 in which the Co-ordinate Bench of this Court was pleased to stay the operation and effect of the order under challenge and had directed the trial Court to restore the suit to its original number and to proceed with the case. On 08.03.2022, the trial Court was pleased to pass the following order:-

*“Present: Shri Rajiv Bhatia, Advocate for plaintiff.
Shri Raman Kumar, Advocate for defendants.*

Ahlmad has put up the file. Order from the Hon'ble High Court has been received, vide which Hon'ble High Court has directed that the order under challenge will remain stayed and the trial Court will provisionally restore the suit to its original number and proceed with the suit. In view of the order of Hon'ble High Court passed in 137 CR-481-2022, dated 11/02/2022, operation of order dated 25/11/2021 will remain stayed and provisionally the suit is hereby restored to



its original number. Adjourned to 13/05/2022 for awaiting further orders of Hon'ble High Court.

*Date of Order: 08/03/2022 (Madan Lal)
CJ(SD)/ACJM, Gurdaspur.
(UID NO.PB0200)”*

A perusal of the above order passed by the trial Court would show that after passing of the order by the Hon'ble High Court, the petitioner as well as other defendants were well aware of the said case as their counsel Sh. Raman Kumar had appeared before the trial Court on 08.03.2022.

7. On 01.12.2023, defendant no.2 did not appear and was thus proceeded against ex-parte and the present petitioner had appeared in person. However, on 03.04.2024 Sh.Raman Kumar, Advocate again filed power of attorney on behalf of defendant no.1 i.e., the petitioner and sought adjournment for filing written statement. The zimni order dated 03.04.2024 is reproduced herienbelow:-

*“Present: Sh. Rajiv Bhatia, Advocate for the plaintiffs.
Sh. Raman Kumar, Advocate for defendant No.1
Bikramjit Singh.*

*Defendant No.2 exparte vide order dated
01.12.2023.*

*Sh. Raman Kumar, Advocate filed Power of
Attorney on behalf of defendant No.1 Bikramjit Singh. On
request, the case is adjourned to 03.05.2024 for filing written
statement by defendant No.1.*

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*Date of Order: 03.04.2024 (Madan Lal)
CJSD/Gurdaspur
(UID NO.PB0200) ”*

8. Even on 14.05.2024, the said Raman Kumar had appeared for defendant no.1 and had further sought time for filing written statement . The said zimni order dated 14.05.2024 is reproduced hereinbelow:-

*“Present: Sh. Rajiv Bhatia, Advocate for the plaintiffs.
Sh. Raman Kumar, Advocate for defendant No.1
Bikramjit Singh.
Defendant No.2 exparte vide order dated
01.12.2023.*

***Written statement not filed by defendant No.1. On
the request of counsel for defendant No.1, case stands
adjourned to 24.05.2024 for filing written statement by
defendant No.1, subject to last opportunity.***

*Date of Order: 14.05.2024 (Rajesh Ahluwalia)
CJSD/Gurdaspur
(UID No. PB0281) ”*

9. On 24.05.2024, Raman Kumar Advocate had moved an application under Oder 9 Rule 7 CPC for setting aside the ex-parte proceedings qua defendant no.2 which was allowed on 01.07.2024 and the ex-parte proceedings against defendant no.2 were set aside subject to costs of Rs.200/-. The zimni order dated 01.07.2024 is reproduced hereinbelow:-

*“Present:- Sh. Rajiv Bhatia, Advocate, Id. counsel for
plaintiff/respondent.
**Sh. Raman Kumar, Advocate, Id. counsel for
applicant /defendant No. 2 Baljit Singh and
defendant No.1.***

*Reply to the application u/o 9 Rule 7 CPC filed.
Copy supplied. Heard. Vide my separate detailed order of even*

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*date, application u/o 9 rule 7 CPC for setting aside the ex-parte order/proceedings against defendant vide order dated 01.12.2023, stands set aside, subject to cost of Rs.200/- to be given to the plaintiff. **Case stands adjourned to 22.07.2024 for filing written statement on behalf of defendants and payment of cost.***

*Rajesh Ahluwalia, (UID No.PB0281)
CJ/SD, Gurdaspur, 01.07.2024”*

10. On 22.07.2024 also, counsel Sh. Raman Kumar prayed for an adjournment to file written statement and the case was adjourned to 22.08.2024. Again on 22.08.2024, written statement was not filed, although counsel Sh. Raman Kumar had appeared along with defendants no.1 and 2 and the case was adjourned to 07.09.2024, on which date again reply was not filed. On 23.09.2024, defendant no.1-petitioner appeared in person and prayed for adjournment to file written statement and it was further specifically clarified that no further opportunity would be granted. On 29.10.2024, again defendant no.1 did not appear nor his counsel appeared and was thus proceeded against ex-parte. The order dated 29.10.2024 is reproduced hereinbelow:-

*“Present: Sh. Rajiv Bhatia, Advocate, Id. counsel for plaintiff.
None for the defendants No.1.
Defendant No.2 exparte.*

*Today the case was fixed for filing rejoinder and arguments on stay application. **Case has been called several***

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times since morning, but neither the defendant No.1 in person nor any counsel on his behalf appeared in the Court. It is already 4.10 P.M. As such, the defendant No.1 is proceeded against exparte.

Case stands adjourned to 13.11.2024 for arguments on stay application.

Date of Order: 29.10.2024.

*(Rajesh Ahluwalia)
CJSD/Gurdaspur
(UID NO.PB0281)”*

11. The case thereafter was fixed for evidence of the plaintiff and on 07.01.2025, an application was moved by defendant no.1- petitioner for setting aside ex-parte order, which was allowed on 23.01.2025 subject to payment of costs of Rs.200/-. It would be relevant to note that on 21.01.2025 Sh. Raman Kumar, Advocate, appeared for the defendants and on 10.02.2025 the said counsel had again appeared for defendant no.1. The said order is reproduced hereinbelow:-

***“Present: Sh. Rajiv Bhatia Advocate for plaintiffs.
Sh. Raman Kumar, Advocate for defendants.***

Arguments on application for setting aside exparte order dated 29.10.2024 not addressed. Adjournment requested which is not opposed. Case stands adjourned to 23.01.2025 for consideration on the above said application.

Date of Order: 21.01.2025

*(Rajesh Ahluwalia)
Civil Judge (Senior Division)
Gurdaspur, UID No. PB0281”*

xxx xxx xxx



*“Present:- **Sh. Raman Kumar, Advocate, Id. counsel for applicant/defendant No.1 Bikramjeet Singh and Baljit Singh***

Sh. Rajiv Bhatia, Advocate, Id. counsel for plaintiffs/ respondents.

*Arguments on application u/o 9 Rule 7 CPC heard. Vide my separate detailed order of even date, application u/o 9 rule 7 CPC for setting aside the ex-parte order/proceedings against defendant vide order dated 13.11.2024, stands allowed, subject to cost of Rs.200/- to be given to the plaintiff. Vide separate order issues framed. **For PWs adjourned to 10.02.2025.***

*Rajesh Ahluwalia, (UID No.PB0281)
CJ/SD, Gurdaspur, 23.01.2025”*

12. The issues in the present case were framed on 23.01.2025 in the presence of Sh. Raman Kumar, Advocate, for defendant no.1 and thereafter on 25.02.2025, the present application under Order 6 Rule 17 CPC read with Section 151 CPC for amendment of written statement was filed.

13. Learned counsel for the petitioner has submitted that the petitioner-defendant no.1 had filed the reply on 09.10.2024 and although in the said reply, he had taken up the plea that the agreement was not genuine and the agreement was written as security but the said written statement was not in proper form as the same had not been filed by the Advocate. It is prayed that thus, the application filed for amendment dated 25.02.2025 be allowed and the petitioner-defendant no.1 be permitted to file written statement through counsel. It is further submitted that the impugned order



vide which the said application has been dismissed is illegal and against law and deserves to be set aside.

14. A perusal of the impugned order dated 25.07.2025 would show that the trial Court had noted the conduct of the defendants, including the present petitioner, who is defendant no.1 and also the fact that Raman Kumar, Advocate had been appearing on their behalf right from the beginning and had even filed application under Section 151 CPC for staying the proceedings and had also filed an application for setting aside the ex-parte order and that issues in the case were also framed and the case was fixed for plaintiff's evidence. It was observed that from perusal of the record, it could not be said that the defendants did not have any access to the counsel and rather it was apparent that the defendants were trying to delay the proceedings. The said order which has been passed is in accordance with law and deserves to be upheld.

15. From the abovesaid zimni orders, it is apparent that Sh. Raman Kumar, Advocate had been engaged on the first date of appearance and had filed application under Section 151 CPC for stay of proceedings as well as application for setting aside ex-parte proceedings against both defendant no.1 and defendant no.2 and even after passing of the order of the High Court, had been representing the defendants. In the said circumstances, the filing of the written statement (Annexure P-7) on 09.10.2024 by the petitioner not through counsel seems to be a clever tactic to further delay the proceedings which have been instituted in the year 2018. Even a perusal



of the application dated 25.02.2025 (Annexure P-8) would show that there is no reference to any specific paragraph which is sought to be added or deleted and rather a prayer has been made for filing a fresh written statement regarding which no provision of law has been referred to before this Court or in the said application. Moreover, in the present case, it cannot be even remotely said that the written statement through counsel could not be filed in spite of due diligence and thus, the amendment sought is also hit by proviso to Order 6 Rule 17 CPC.

16. Proviso to Order 6 Rule 17 CPC has been incorporated on 01.07.2002 and the said provision reads as under:-

“17. Amendment of pleadings.—The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties:

Provided that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial.”

A perusal of the above provision would show that it has been specifically mentioned in the proviso that no application for amendment shall be allowed after the trial has commenced unless the Court comes to the conclusion that in spite of due diligence, the party could not raise the matter before commencement of the trial.



17. The Hon'ble Supreme Court in the case of ***Ajendraprasadji N. Pande and another Vs. Swami Keshavprakeshdasji N. and others***, reported as ***2006(12) SCC 1***, had observed that trial is deemed to commence when the issues are settled and the case is set down for recording of evidence and for the purpose of satisfying the requirement of Order 6 Rule 17 CPC (as amended), the necessary particulars are required to be mentioned in the application which would satisfy the requirement of law.

18. The Hon'ble Supreme Court in the case of ***Vidyabai and thers vs. Padmalatha and another*** reported as ***2009(2) SCC 409*** had further observed that the proviso to Order 6 Rule 17 CPC restricts the power of the Court and it puts an embargo on the exercise of its jurisdiction and the Court's jurisdiction in a case where amendment is sought after the commencement of the trial is limited. In the said case, defendants therein had moved an application for amendment after issues had been framed and the plaintiffs' witnesses therein had filed affidavit by way of evidence and the trial Court had dismissed the application under Order 6 Rule 17 CPC whereas the High Court had allowed the said application under Order 6 Rule 17 CPC. The Hon'ble Supreme Court, after considering the law on the point and also after taking into consideration the proviso to Order 6 Rule 17 CPC had set aside the order of the High Court and had upheld the order of the trial Court dismissing the application. Additionally, it was observed that the High Court while setting aside the order did not satisfy the test of judicial review and it had not been found that the trial Court had exceeded



its jurisdiction in passing the impugned order therein nor it had been found that there was any error of law committed by the trial Court. The law laid down in the abovesaid case would fully apply in the present case as it is not in dispute that there was no due diligence in filing the application for amendment and thus, amendment sought was hit by the proviso to Order 6 Rule 17 CPC.

19. 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.

20. Keeping in view the above said facts and circumstances, the impugned orders deserve to be upheld and are accordingly upheld and the present revision petitions filed by the petitioner being meritless, deserves to be dismissed and are accordingly dismissed.

(VIKAS BAHL)
JUDGE

September 29, 2025.

Davinder Kumar

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No