

ITEM NO.24

COURT NO.16

SECTION IV-B

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

SPECIAL LEAVE PETITION (CIVIL) Diary No(s). 43452/2025

[Arising out of impugned final judgment and order dated 29-04-2025 in CR No. 932/2022 passed by the High Court of Punjab & Haryana at Chandigarh]

SANTOSH GOSAIN

Petitioner(s)

VERSUS

M/S BELI RAM SAREEN & ANR.

Respondent(s)

IA No. 196741/2025 - CONDONATION OF DELAY IN FILING

Date : 22-08-2025 This matter was called on for hearing today.

**CORAM : HON'BLE MR. JUSTICE ARAVIND KUMAR
HON'BLE MR. JUSTICE N.V. ANJARIA**

For Petitioner(s) :

**Ms. Bharti Tyagi, AOR
Mr. Tarun Bhati, Adv.
Mr. D. K. Singh, Adv.
Mr. Vikash Kumar, Adv.**

For Respondent(s) :

UPON hearing the counsel the Court made the following

O R D E R

1. Delay condoned.
2. The special leave petition is filed against the order dated 29.04.2025, whereunder the High Court reversed the order passed by the learned Civil Judge (Senior Division), Ambala, rendered in Civil Revision No.932/2022 under which the application filed by the respondent/plaintiff under Order 15 Rule 5 of Code of Civil Procedure, 1908 (CPC) had been allowed and defence of the petitioner was struck-off for non-deposit of rent.
3. The sum and substance of the grievance of the petitioner, before the trial court, High Court and this Court as well as the thrust of the argument of the learned counsel appearing for the petitioner, is to the effect that no instruction had been given to the learned counsel to consent for depositing the rent and yet the learned advocate had exceeded his brief in making a concession before the High Court undertaking to deposit rent based on which the defence of the defendant in eviction proceedings has been struck off for non-payment of rents as undertaken. In fact, in the words of the petitioner (tenant), in the synopsis filed along with the present special leave petition, it has been stated to the following

effect:

“The High Court has erred in allowing the application under Order 15 Rule 5 CPC of the respondent on the basis of the learned counsel for the petitioner undertaking to deposit arrears of rent with the Hon’ble Court **whereas the petitioner has categorically denied any such undertaking being given to deposit the arrears of rent with the Court** vide the reply affidavit dated 29.05.2024 (paragraph 8-9 of the affidavit) filed before the High Court in the Civil Revision No.932/2022.”

(Emphasis supplied by us)

4. This statement runs contrary to what has been recorded under the impugned order itself at page 8 paragraph 17, which would clearly indicate that this very petitioner was present before the Court, and after instructing the counsel, a submission came to be made by the counsel that rent which was in arrears would be deposited. It is this undertaking given by the learned Advocate on instructions which was made, came to be recorded by the High Court. At the cost of burdening this order, we note that High Court by the impugned order had noted that an undertaking was given that the amount reflected in the order dated 29.05.2023 would be paid within a period of one week and this undertaking was not complied. It was noted by the High Court that on 28.11.2023 an undertaking was given on behalf of the Respondent (petitioner herein), who was present in the Court to the effect that due payment in terms of the Order dated 25.09.2023 would be paid, within a period of one week.

5. The aforesaid orders came to be noticed by the High Court to arrive at a conclusion that despite such undertaking being given, petitioner herein had not

adhered to such undertaking and as such held that the only recourse open to the Court was to strike out the defence by exercising the power under Order 15 Rule 5 CPC and this glaring facts having being ignored by the trial court, was rightly set right by the High Court by allowing the revision petition and striking-off the defence of the tenant (petitioner herein).

6. Though, learned counsel appearing for the petitioner-tenant has made an effort to persuade this Court that the petitioner may be put on terms and leave may be granted to defend the case by tendering the evidence, we are not impressed by the said argument on account of recalcitrant attitude exhibited by the petitioner before the High Court and having made an attempt to lay the blame at the doors of the learned advocate who appeared on his/her behalf though he had appeared in court and had instructed the advocate to make such statement and had been denied. Such conduct should not only be deprecated but also should be curbed with iron hands as otherwise the stream of justice is likely to be polluted by such stray incidents as has happened in the instant case.

7. In that view of the matter we are inclined to dismiss this petition with cost of Rs.10,000/- (Rupees Ten Thousand) payable to the Chief Minister's Flood Relief Fund (Government of Punjab).

8. The special leave petition is, accordingly, dismissed. Pending application(s), if any, shall stand disposed of.

(RASHI GUPTA)
COURT MASTER (SH)

(AVGV RAMU)
COURT MASTER (NSH)