

IOIN-1-CRM-M-44829-2026 in
CRM-M-44829-2026

Vijay Sharma vs. State of Haryana

1. The need to pass the instant order has occasioned, on account of an error that has crept into the order dated 07.09.2026, which has been brought to my notice by the Court staff.

2. On 07.09.2026, the following order was passed; relevant whereof reads as under:

“On 18.08.2026, the following order was passed:

“The learned State counsel seeks to file reply with an advance copy to the learned counsel for the petitioner on or before the next date of hearing failing to do so the concerned SP shall be saddled with costs of Rs.5,000/-.

List on 07.09.2026.

To be taken up in the urgent cause list.”

Reply has not been filed till date. Learned State counsel has sought to file reply, in Court today; same prayer is declined since no plausible cause is being shown, at least, for the nonce, as to why the reply was not filed in time as stipulated in the earlier order dated 18.08.2026.

Costs of Rs.5,000/- is imposed upon the Superintendent of Police, Mewat, Additional Director General of Police (Law & Order) is directed to deduct the said amount from the salary of the Superintendent of Police, Mewat and deposit the same with the Haryana State Legal Services Authority.

State is directed to file reply, positively, before the next date of hearing along with receipt of costs in the manner stipulated above.

List for consideration on 14.09.2026.

Be taken up in the urgent cause list.”

3. It would be axiomatic to refer herein to two cardinal jurisprudential principles namely, *Actus Curiae Neminem Gravabit & Nunc Pro Tunc*.

3.1 A three Judges Bench of the Hon'ble Supreme Court in the judgment titled as ***Jang Singh vs. Brij Lal and another***, 1966 AIR 1631 has held as under:

“6. xxx xxx xxx xxx xxx
 xxx xxx xxx. There is no higher principle
for the guidance of the Court than the one that no act of Courts should
harm a litigant and it is the bounden duty of Courts to see that if a person
is harmed by a mistake of the Court he should be restored to the position
he would have occupied but for that mistake. This is aptly summed up in
the maxim:

“*Actus curiae neminem gravabit*”.

 xxx xxx xxx xxx xxx
 xxx xxx xxx xxx xxx
8. xxx xxx xxx xxx xxx
 xxx xxx xxx. In view of the mistake of
the Court which needs to be righted the parties are relegated to the
position they occupied on January 6, 1958, when the error was committed
by the Court which error is being rectified by us **nunc pro tunc**. ”

3.2 The Hon’ble Supreme Court in a judgment titled as **Budhia Swain and others vs. Gopinath Deb and othersAIR 1999 SUPREME COURT 2089**, has held as under:

“8. In our opinion a tribunal or a court may recall an order earlier made by it if (i) the proceedings culminating into an order suffer from the inherent lack of jurisdiction and such lack of jurisdiction is patent, (ii) there exists fraud or collusion in obtaining the judgment, (iii) there has been a mistake of the court prejudicing a party or (iv) a judgment was rendered in ignorance of the fact that a necessary party had not been served at all or had died and the estate was not represented. The power to recall a judgment will not be exercised when the ground for re-opening the proceedings or vacating the judgment was available to be pleaded in the original action but was not done or where a proper remedy in some other proceeding such as by way of appeal or revision was available but was not availed. The right to seek vacation of a judgment may be lost by waiver, estoppel or acquiescence.”

3.3 Further, the Hon’ble Supreme Court in a judgment tiled as **Bhupinder Singh vs. Unitech Limited, 2023 LiveLaw(SC) 263 = Neutral Citation No.2023 INSC 283**, been held as under:

“5.2 As per the settled position of law, the act of the Court shall prejudice no one and in such a fact situation, the Court is under an obligation to undo the wrong done to a party by the act of the Court. The maxim **actus curiae neminem gravabit** shall be applicable. xxxxxxxxxxxxxxxxxxxx.”

3.4 More recently; a three Judges Bench of the Hon’ble Supreme in the case of **Greater Noida Industrial Development Authority vs. Prabhjit Singh Soni & anr., 2024 INSC 102**, has reiterated the ratio decidendi in the case of **Budhia Swain** (supra) and has held as under:

“48. The law which emerges from the decisions above is that a Tribunal or a Court is invested with such ancillary or incidental powers as may be necessary to discharge its functions effectively for the purpose of doing justice between the parties and, in absence of a statutory prohibition, in an appropriate case, it can recall its order in exercise of such ancillary or incidental powers.”

4. The principle of *Actus Curiae Neminem Gravabit*; when perused in light of the dicta of the judgments of the Hon’ble Supreme Court in the cases of **Jang Singh** (supra) and **Bhupinder Singh** (supra) clearly show that there is no higher principle for the guidance of the Courts than the one that no act of Courts should harm a litigant and it is bouden duty of the Courts to see if a person is harmed by a mistake of the Court then he should be restored to the position he would have occupied but for that mistake. The Hon’ble Supreme Court in the judgment of **Budhia Swain** (supra), which has been reiterated in three Judges Bench judgment of **Prabhjit Singh Soni**(supra), has categorically held that the Court is entitled as also duty bound to recall an order to the extent that there has been a mistake of the Court which has caused prejudice to the litigant. Accordingly, it is inexorable posit that this principle is founded upon justice and good sense which serves a safe and certain guide for the administration of law as also

justice. It would apply with greater force regarding the acts for which it can be unequivocally held that the Court wouldn't have ever so acted had accurate/correct facts been brought to its notice. The principle of *Nunc Pro Tunc* essentially means that a present order by Court is directing for past changes in the present times. This principle, undoubtedly, has very limited application but it is an indispensable principle of jurisprudence serving the salutary objective of administration of justice in entirety and also serves as remedial measure(s) towards the inadvertent error committed. The ratio decidendi of the judgment of the Supreme Court in the case of ***Jang Singh*** (supra) makes it unequivocal that; principle of *Nunc Pro Tunc* is applied; to make the principle of *Actus curiae neminem gravabit* effective in entirety. It goes without saying that an error, which is sought to be rectified by way of application of these two principles, must be an error which is self evident and does not require any long-drawn process of reasoning on the points where there may conceivably be two opinions.

5. In the factual *milieu* of the case in hand, it appears that it has been specifically contemplated in order dated 18.08.2026 that the reply should be filed *on or before the next date of hearing* and in case of failure to do so, the concerned Superintendent of Police would be saddled with costs of ₹5,000/-. However, on the next date of hearing i.e. on 07.09.2026, while passing the order, the relevant factual position was inadvertently recorded in a manner which resulted in imposition of costs upon the concerned Superintendent of Police despite the fact that the State had sought to place its reply on record on the said date. Thus, the imposition of costs upon the concerned Superintendent of Police, in the circumstances noticed hereinabove, cannot be allowed to operate when the same is *per se* the

consequence of an inadvertent error in recording the relevant factual position.

6. In view of the factual matrix of the case as also in the interest of justice and equity, the direction contained in the order dated 07.09.2026 whereby costs of ₹5,000/- were imposed upon the Superintendent of Police, Mewat and consequential direction for deduction of the said amount from his salary, shall stand recalled. Requisite consequences to ensue. It is clarified that the instant order shall form part of the record and shall be read in continuation of the order dated 07.09.2026.

IOIN stands disposed of.

**(SUMEET GOEL)
JUDGE**

September 10, 2026
Ajay