

In the High Court of Punjab and Haryana at Chandigarh

CR No. 1634 of 2015

Date of decision: 09.03.2015

Ashok

.....Petitioner

Versus

Sanjay and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr.N.D.Achint,Advocate
for the petitioner.

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SABINA, J

Petitioner has filed this petition challenging the order dated 5.8.2014 (Annexure P4) whereby the application moved by the petitioner for restoration of the suit qua him, was dismissed.

Learned counsel for the petitioner has submitted that the petitioner and his sister-Sunita had filed a suit for declaration and permanent injunction. Petitioner and his sister had challenged the release deed dated 29.4.2004 executed by their father in favour of their brother. However, the petitioner had withdrawn the suit qua him as the parties had amicably settled their dispute but the said compromise was not honoured by the defendants. Hence, the petitioner moved an application for the restoration of the suit qua him. Trial Court has erred in dismissing the said application.

In the present case, admittedly, petitioner and his sister

had filed the suit challenging the release deed dated 29.4.2004 executed by their father in favour of their brother. Petitioner withdrew the suit qua him on 14.8.2010. Thereafter, the petitioner moved an application for restoration of the suit qua him in the year 2014. The said application was rightly dismissed by the trial Court as the petitioner had consciously withdrawn the suit qua him. Now, after a gap of more than three and a half years, petitioner could not be allowed to seek restoration of the suit qua him merely on the ground that the suit was still pending so far as his sister was concerned. It appears that, although, petitioner had, initially, withdrawn the suit but later, after a gap of about three and a half years, he changed his mind and wanted to again pursue the suit.

In the facts and circumstances of the present case, learned trial Court has rightly dismissed the application filed by the petitioner. No ground for interference by this Court is made out.

Dismissed.

**(SABINA)
JUDGE**

March 09, 2014
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