

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

CR No.2118 of 2015

Date of decision : 09.09.2015

Chanan Singh @ Chanaan Singh

...Petitioner

Versus

State of Punjab and ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

1. Whether reporters of local newspapers may be allowed to see judgment ?
2. To be referred to reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. Lakhvinder, Advocate for
Mr. P.S. Dhaliwal, Advocate for the petitioner.

Mr. Navdeep Singh Bhullar, Advocate for
respondent Nos.6, 9 to 11, 13, 14, 19, 21, 27, 40, 44, 48 to 51,
55, 57, 60 & 63.

AMIT RAWAL, J. (Oral)

Mr. Navdeep Singh Bhullar, Advocate has put in appearance on
behalf of respondent Nos.6, 9 to 11, 13, 14, 19, 21, 27, 40, 44, 48 to 51, 55,
57, 60 & 63 .

Challenge in the present petition is to the impugned order dated
16.02.2015 (Annexure P-5), whereby application filed under Section 107
CPC read with Order 23 Rule 1 of Code of Civil Procedure for withdrawal
of the suit at the stage when the appeal had been filed against the judgment
and decree, has been dismissed.

Mr. Lakhvinder, learned counsel appearing on behalf of the petitioner submits that suit for declaration has been filed to the effect that plaintiff, being adopted son of Dhan Kaur widow Chuhan Singh, is owner in possession of 3/5th share of land. He further submits that trial Court had dismissed the suit on the ground that the plaintiff was never owner of the suit property and the State Government had become the owner after the acquisition proceedings and mutation No.8998 to that effect has been entered in revenue record. During the pendency of the appeal, application, aforementioned, for withdrawal of the civil suit No.440 dated 27.09.2005 had been moved. The same has been dismissed.

Mr. Navdeep Singh Bhullar, learned counsel for respondent Nos.6, 9 to 11, 13, 14, 19, 21, 27, 40, 44, 48 to 51, 55, 57, 60 & 63 submits that application is for withdrawal of the suit at the stage, when appeal had been filed which rightly has been dismissed as there is no inherent defect in suit and there is no illegality and perversity.

I have heard learned counsel for parties and appraised the paper book.

It is a matter of record that land had been acquired in the year 1975. The suit for declaration as framed and filed was not maintainable as it is ex facie barred for the reasons that land was acquired in the year 1975 and it is settled law that acquisition of land cannot be challenged by invoking the jurisdiction of Section 9 of Code of Civil Procedure. Though prayer in the application is for withdrawal of the suit at this stage, I deem it appropriate that suit in any form challenging the acquisition proceedings is not maintainable.

Since suit was not maintainable, liberty is granted to the petitioner-plaintiff to withdraw the suit unconditionally.

Accordingly, impugned order is set aside. The application under Section 107 CPC read with Order 23 Rule 1 of Code of Civil Procedure is allowed.

Since, suit has been withdrawn, the appeal filed by the plaintiff is also rendered infructuous.

It is made clear that no liberty has been granted to the plaintiff to file suit on the same cause of action.

Civil revision petition stands disposed of.

09.09.2015

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**(AMIT RAWAL)
JUDGE**