

C.R No. 331 of 2015

KUMAR MANOJ
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**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

C.R No. 331 of 2015
Date of Decision:-15.01.2015

Charanjeet Kaur

.....Petitioner.

Versus

Jeet Singh and others

.....Respondents.

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Rajender Chhokar, Advocate for the petitioner.

JASWANT SINGH, J.(ORAL)

Plaintiff is in revision assailing the order dated 01.12.2014 passed by the Additional Civil Judge (Sr. Division), Mansa whereby her application for discarding the written statement of defendant Nos.2 to 7, has been dismissed.

Learned counsel for the plaintiff-plaintiff has argued that defendant Nos.2 to 7 were subsequently impleaded as defendants as assignees of the original defendant No.1 vide order dated 07.08.2009 in an application under Order 22 Rule 10 CPC and, therefore could legally contest only the stand of defendant No.1 and not put-forth their independent stand by filing a separate written statement.

After hearing hearing learned counsel for the petitioner-plaintiff, this Court finds no ground to invoke the jurisdiction of this Court under Article 227 of the Constitution. The petitioner-plaintiff had filed a suit for mandatory injunction seeking to direct defendant No.1 to remove the obstruction made by him on a passage of two karams wide leading upto her fields.

It is stated that defendant No.1 filed a written statement contesting the suit. He subsequently sold his land to defendant Nos.2 to 7 who stepped into the shoes of defendant No.1. It is further not in dispute that defendant Nos.2 to 7 were permitted to file their written statement in the Court on 04.01.2010 in the presence of counsel for the plaintiff. It also cannot be disputed that after the written statement had been taken on record, the plaintiff filed his application for discarding the written statement after a gap of more than three and half years. It is further apparent from the impugned order that the defendant-Jit Singh during the pendency of the proceedings in the suit had compromised the matter with the plaintiff.

Thus viewed, in the opinion of this Court, the learned trial Court taking the facts cumulatively has rightly dismissed the application of the plaintiff for discarding the written statement. No doubt, the defendants impleaded as assignees are required to pursue the stand of the original defendant, however, in the facts of the present case cumulatively taken, the approach of the trial Court cannot be said to be arbitrary requiring interference by this Court.

In view of the above, finding no merit in the present petition, the same is dismissed.

January 15, 2015
manoj

(JASWANT SINGH)
JUDGE