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

CR No.3667 of 2015

Date of decision: May 27, 2015

Hardam Singh

.....Petitioner

Versus

Angrej Singh and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. S.C. Arora, Advocate
for the petitioner.

SABINA, J

Petitioner has filed this petition challenging the order dated 21.04.2015, whereby application moved by the petitioner for permission to withdraw the appeal as well as suit and file a fresh one on the same cause of action, was dismissed.

I have heard learned counsel for the petitioner and have gone through the record available on the file carefully.

Petitioner alongwith others had filed suit for declaration that they were owners-in-possession of the suit property. Suit filed by the plaintiffs was dismissed. In appeal, petitioner moved an application for permission to withdraw the appeal as well as the suit and file a fresh one on the same cause of action. The learned Appellate Court rightly rejected the application as the suit was filed in the year 2006 and the same was decided on 21.07.2014. Petitioner had

challenged the order dated 21.11.1995 passed by the Additional Director Consolidation. Suit filed by the plaintiffs was dismissed on the ground that the said order could not be challenged before the Civil Court. The said defect in the suit, cannot be said to be a formal defect. In these circumstances, the learned First Appellate Court had rightly dismissed the application moved by the petitioner under Order 23 Rule (1) (3) of Code of Civil Procedure, 1908.

No ground for interference by this Court, is made out.

Dismissed.

**(SABINA)
JUDGE**

May 27, 2015

m.singh