

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

CR No.6597 of 2015

Date of Decision: October 06, 2015

Baldev Singh and others

.... Petitioners

vs.

Gurdev Kaur and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. G.S. Jaswal, Advocate for the petitioner.

1. *Whether Reporters of Local Newspapers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

Kuldip Singh J.(Oral)

Challenged in the present revision petition is the order dated 25.08.2015 (Annexure P-6) passed by learned Civil Judge (Jr. Divn.), Barnala, vide which the application of the present petitioners filed under Order XXIII, Rule 1 CPC read with Section 151 CPC for withdrawing the suit with liberty to file a fresh one on the same cause of action, was dismissed.

I have heard learned counsel for the petitioners and have also carefully gone through the case file.

It comes out that the case is at the stage of rebuttal evidence, which means that the case is almost mature for disposal. An application was filed by the plaintiffs-petitioners on the ground that the history pertains to pre-partition days, which could not be

pleaded properly. The plaintiff could not plead the legal effects of various judgments delivered in the litigation between the parties, which had been delivered by the various courts in the past from time to time, although some of the said judgments have been placed on record by both the parties. Therefore, non-pleading of proper legal facts and the various judgments between the parties delivered by various courts, may lead to failure of the suit.

I am of the view that the litigation between parties is stated to be pending for the last more than 65 years as pleaded by the defendants. All the facts were well within the prior knowledge of the plaintiffs-petitioners. In view of the history of litigation, the plaintiffs were to plead all the proper facts. The effect of the judgments was not pleaded but it is a matter of conclusion after the arguments. Therefore, it cannot be called a formal defect. Therefore, when it comes out that the case is mature and the plaintiffs apprehend that the case will fail, the present application has been filed to withdraw the suit with liberty to file a fresh one on the same cause of action.

I am of the view that such permission was rightly declined by the lower court. There is no ground to interfere in the impugned order.

Hence, the present revision petition stands dismissed.

October 06, 2015
sarita

(KULDIP SINGH)
JUDGE