

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No.6662 of 2014

Date of Decision.22.07.2015

Devender Singh and others

.....Petitioners

Versus

Kanwar Sain and others

.....Respondents

Present: Mr. P.R. Yadav, Advocate
for the petitioners.

Mr. Shubham Kaushik, Advocate
for the respondents.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers 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?

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K. KANNAN J. (ORAL)

1. The order passed is untenable. The Court after eight years cannot allow for withdrawal of the suit with no technical defect being actually shown. The suit is for declaration and injunction and after the trial was concluded and at the time of arguments, the application for withdrawal is filed by making reference to the suit property that was sold in the year 1943 was an area of 5 kanals 7 biswas and the share of the deceased Sampat Singh over which the plaintiff claims was 2 bighas 13 biswas, which according to the plaintiff would come to 12 marlas. The mutation, however, was reported to have been sanctioned to the whole area. This can hardly be taken to be a technical error that would justify the withdrawal of the suit. If at all, the plaintiff may use it to restrict his claim to what is appropriate but cannot walk away from the suit with liberty to cause a fresh problem to the defendant. He should take the

consequence of the suit which he has filed and the permission for withdrawal without granting such a liberty in the manner sought for is bound to cause very serious prejudice of having to defend a further suit which may be filed on the same cause of action.

2. The order is set aside and the Court below is directed to dispose of the case in accordance with law after hearing their arguments from the respective sides. The revision petition is allowed with the above observations.

(K. KANNAN)
JUDGE

July 22, 2015
Pankaj*