

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH.

CR 7636 of 2014

Date of Decision: July 13, 2015

Jagjit Singh and another

.....Petitioners

Vs.

Sukhdev Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI.

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Present:- Mr.Rakesh Gupta, Advocate  
for the petitioner.

Mr. Pritam Saini, Advocate.

Mr. Rajesh Goyal, Advocate.

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**M.M.S. BEDI, J. (ORAL)**

The defendants- Jagjit Singh and Jarnail Singh, sons of Sukhchain Singh son of Tej Kaur wife of Kapur Singh have preferred this revision petition under Article 227 of the Constitution of India, challenging the order dated October 1, 2014 by virtue of which the plaintiff- respondents who are the successor-in-interest of Kapur Singh have been permitted to withdraw a suit with liberty to file a fresh suit on the same cause of action. The trial Court has observed that the suit has been filed by the plaintiff-

respondents challenging the transfer deed by Tej Kaur in favour of defendant- petitioners. The trial Court has observed in penultimate para of its order that parties have raised an issue regarding the Will of Kapur Singh and that the validity of said Will is a different cause of action and that the said subject matter is partly different. The Court observed that in order to properly adjudicate the matter there are sufficient grounds for allowing the plaintiffs to institute the fresh suit. It is ordered that the permission to file suit shall be subject to payment of cost and that the plea of limitation will be open to the defendant- petitioners in case fresh suit is filed.

Learned counsel for the defendant- petitioners has vehemently contended that the plaintiff- respondents had admitted the title of Tej Kaur and filed the present suit and that the suit has been withdrawn with an intention to wriggle out of the said admission and to subsequently challenge the acquisition of title by Tej Kaur from Kapur Singh by Will.

I have considered the said contention of learned counsel for the defendant- petitioners and the plaintiff- respondents. It will be premature to presume the grounds which would be taken by the plaintiff- respondents in the fresh suit which has been permitted to be filed by permitting the plaintiff- respondents to withdraw the suit. The rights of the defendant- petitioners have already been safeguarded by the impugned order while protecting their resistance to the suit to be filed on the ground of limitation. It will be premature to assess the pleadings in the fresh suit to be filed by the plaintiffs. It is observed that the plaintiff- respondents having withdrawn

the suit with liberty to file the fresh suit will not hamper the legal rights of the defendant- petitioners to challenge the fresh suit if the same is barred under Order 2 Rule 2 CPC, besides the defence of limitation available to the defendant- petitioners. Without prejudice to the rights of the defendant- petitioners to take up all the pleas before the trial Court, this petition is disposed of warranting no interference at this stage.

July 13, 2015  
sanjay

(M.M.S.BEDI)  
JUDGE