

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Revision No.8617 of 2015

Date of decision: 18.12.2015

Shiv Dutt Jangra (since deceased) through his legal representatives and another

.....Petitioners

versus

Purushotam Dass and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Sumit Sangwan, Advocate for the petitioners

- 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)

Impugned in the present revision is the order dated 11.12.2015 (Annexure P1), passed by the learned Additional Civil Judge, Senior Division, Charkhi Dadri, vide which, the application of the petitioners filed under Section 10 CPC has been dismissed.

It comes out from the impugned order that previously the present petitioners had filed a suit for permanent injunction against the present plaintiffs. The suit was dismissed and appeal against the said judgment is stated to be pending for 5.2.2016 before the lower appellate Court. The present plaintiff-respondent No.1 herein has now filed a suit for possession on the ground that in the previous suit, the present petitioners /defendants have failed to prove that they are tenants. At the stage of rebuttal evidence of the plaintiffs, present application under Section 10 CPC was moved by the present

petitioners -defendants which was dismissed vide the impugned order.

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

It comes out that an application under Section 10 CPC was moved at the stage of rebuttal evidence of the plaintiffs when the case was mature for arguments. No such application was filed at the initial stage. Once both the parties have led their respective evidence, it is always open to the present petitioners to raise such arguments at the time of final arguments and pray that the present suit should not be decided during the pendency of the appeal of the first suit. Lower Court can then consider the submissions and pass appropriate order in the final judgment itself. The case is now fixed for arguments.

There is no illegality in the impugned order.

The revision is dismissed accordingly.

18.12.2015
gk

(Kuldip Singh)
Judge