

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

**CM No. 13981-C of 2015 in/and
RSA No. 24 of 2015 (O&M)
Date of Decision : 06.11.2015**

Bhagwan Dass and others

....Appellants

Versus

Bahadur Singh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Pankaj Jain, Advocate
for the appellants.

Mr. Sudhir Aggarwal, Advocate
for the respondents.

Surinder Gupta, J. (Oral)

The instant application (CM No. 13981-C of 2015) has been filed by the appellants seeking stay of operation of the judgment and decree passed by the Court below in the suit filed by Bahadur Singh and others sons of Kishan Lal against Sher Singh son of Ramji Lal. The appellants were not parties to that suit.

Learned counsel for the appellants submits that the property in dispute belonged to one Dhanna and the appellants being sons of Chander Singh great grandson of Dhanna are also having share in the property owned by Dhanna. However, they were not made party in the civil suit and their application for impleading them as party was also declined. In revision they were given liberty to file appeal as per provisions of law.

Learned counsel for the appellants also submits that as the appellants were not party in the civil suit they are entitled to file separate suit claiming their right in the suit property and

seeks withdrawal of this application as well as of main appeal with liberty to file fresh suit or avail all other remedies available under law claiming right of appellant in the suit property, decided vide judgment dated 27.08.2012 by the Court of Additional Civil Judge (Senior Division), Gurgaon and in appeal dated 13.08.2013 by the District Judge, Gurgaon.

Learned counsel for the respondents submits that he has no objection if the appellants are allowed to withdraw the application as well as the main appeal.

In view of the submission of learned counsel for the parties, the appeal which is fixed for 10.12.2015, is also taken up today and is allowed to be withdrawn. It is, however, made clear that nothing observed while deciding application under Order I Rule 10 CPC by the Court below or in revision by this Court shall come in the way of appellants claiming their right in the suit property, which would be decided by the Court below on merit, if such claim is preferred.

Dismissed as withdrawn with liberty as aforesaid.

November 06, 2015
jk

(SURINDER GUPTA)
JUDGE