

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

SAO-72-2015 (O&M)

Date-of-decision-26.11.2015.

MOHINDER SINGH & ORS

...Appellants

VS

MUSLIM WELFARE & ROZA COMMITTEE AND ORS

...Respondents

CORAM:- HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Y.S Turka, Advocate
 for the appellants.

Mr. Sandeep Verma, Advocate
for respondent No.1.

RAJ MOHAN SINGH, J (Oral)

[1] Learned counsel appearing on behalf of respondent No.1 states that respondent No. 1 is the contesting respondent who was the plaintiff before the trial Court. Service qua respondents No.2 and 3 be dispensed with. Though as per office report, respondent No.2 and 3 have also been served but none has appeared on their behalf. Therefore, respondents No.2 and 3 are proceeded against ex parte. On 24.09.2015, following order was passed by this Court:-

“Learned counsel for the appellant inter alia contends that in the suit filed by the plaintiff Muslim Welfare & Roza Committee, the plaintiff has specifically pleaded in para No.7 that the land in dispute vests in Punjab Wakf Board. Punjab Wakf Board has been impleaded as performa defendant No.3 in the present suit and no relief has been sought against it. In earlier litigation between father of the petitioner and Punjab Wakf Board, decision was given in

favour of father of the petitioner on merits and the father of the petitioner was held to be owner of land in question. Trial Court dismissed the suit under Order 7 Rule 11 CPC on the ground of res-judicata as both the parties are claiming title which already stood decided in favour of father of the petitioner. Since, the plaintiff is also acting under the alleged title of the Punjab Wakf Board in view of para No.7 of plaint itself, the Lower Appellate Court has exceeded its jurisdiction by observing that whether plaintiff Muslim Welfare & Roza Committee is a branch of Punjab Wakf Board is to be decided first.

Notice of motion for 12.10.2015.

Dasti as well.”

[2] Learned counsel for respondent No.1 states at the bar that the plaintiff has already moved an application before the trial Court for withdrawal of the suit itself, therefore, this revision petition has become infructuous. Apparently, the application under Order 7 Rule 11 CPC filed by the defendant was allowed by the trial Court. In appeal before Lower Appellate Court it was remanded back. Application filed by the plaintiff for withdrawal of suit seems to be inconsonance with the order passed under Order 7 Rule 11 by the trial Court.

[3] In view of aforesaid, this revision petition is disposed of having become infructuous in the light of statement made by learned counsel for the respondent No.1.

November 26, 2015

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**(RAJ MOHAN SINGH)
JUDGE**