

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

**RSA No. 5423 of 2014 (O&M)  
Date of Decision: 01.05.2015**

Mahender Singh and another

.. Appellants

versus

Smt. Kalawati and others

.. Respondents

**Coram: Hon'ble Mr. Justice Rajesh Bindal**

Present: Mr. Hemant Bassi, Advocate for the appellants.

Mr. Ajay Jain, Advocate  
for respondents No.2 & 5/caveators.

Rajesh Bindal, J.

The present appeal has been filed against the judgment and decree of both the Courts below, whereby the suit filed by the appellants for declaration that they alongwith performa defendants are co-sharers in possession to the extent of 2/3<sup>rd</sup> share in the suit land and are in possession of remaining 1/3<sup>rd</sup> share as tenants on *batai tihai* was dismissed. Both the Courts below while accepting the plea of the appellants to the extent that they alongwith performa defendants are co-sharers in possession to the extent of 2/3<sup>rd</sup> share in the suit land dismissed the claim regarding they being tenants on the remaining 1/3<sup>rd</sup> part of the land.

The land was acquired even prior to filing of the civil suit, as notification under Section 4 of the Land Acquisition Act, 1894 (for short, the Act) was issued on 12.02.2008. The present appellants filed objections claiming apportionment of compensation pertaining to 1/3<sup>rd</sup> share of the suit land. Dispute was referred to the Reference Court under Section 30 of the Act. The claim of the present appellants was not accepted and they have filed RFA No. 4345 of 2014, in this Court, which is still pending.

In view of the factual matrix, learned counsel for the

appellants submitted that he may be permitted to withdraw the suit as the claim made by the appellants in the present suit is already pending consideration before this Court in aforesaid Regular First Appeal.

Learned counsel for respondents No.2 and 5/caveators do not have any objection to the prayer of the appellants for withdrawal of the suit, being granted.

In view of the aforesaid stand taken by learned counsels for the parties, the appellants are permitted to withdraw the suit filed by them as the dispute between the parties is pending consideration in R.F.A. No. 4345 of 2014, which the appellants shall be at liberty to pursue.

The appeal stands disposed of.

01.05.2015  
Manoj Bhutani

(Rajesh Bindal)  
Judge