

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH**

CR No.2781 of 2016 (O&M)

Date of decision:19.1.2017

Vishwajeet Bindal

...Petitioner

Versus

Sanjiv Kumar

...Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr.Aayush Gupta, Advocate for the petitioner.

Mr.Shailendra Jain, Sr. Advocate with
Mr.Sanjeev Gupta, Advocate with
Mr.Satyandra Chauhan, Advocate for the respondent.

RAMESHWAR SINGH MALIK, J. (Oral)

Instant revision petition, under Article 227 of the Constitution of India, is directed against the order dated 1.4.2016 passed by the learned trial Court, whereby application, moved under Order 7 Rule 11 of the Code of Civil Procedure, by the defendant-petitioner, was dismissed.

Notice of motion was issued.

Heard learned counsel for the parties.

Learned counsel for the petitioner refers to the averments taken in para 2 of the application (Annexure P-3 at page 48 of the paper-book) for withdrawal, moved by respondent himself, to contend that the impugned order was palpably wrong. However, he fairly states that in case the application for withdrawal of respondent/moved by vide Annexure P-3 is allowed, granting him opportunity to file a fresh petition under Section 176 of Haryana Panchayati Raj Act, 1994, challenging the election of the petitioner, petitioner shall not raise the issue of limitation, keeping in view the peculiar facts and circumstances of the case.

Learned senior counsel for the respondent also fairly states that he is not averse to the proposal put by the learned counsel for the petitioner.

In view of the above-said stands taken by the learned counsel for the parties, present revision petition is disposed of, permitting the respondent to withdraw his petition, as prayed by him vide his application dated 5.3.2016 (Annexure P-3) with liberty to file fresh petition on the same cause of action. However, it is clarified that if respondent files fresh petition within a period of one week from today, petitioner shall not raise the issue of limitation, as rightly undertaken on behalf of the petitioner by his learned counsel. Should there be any confusion in this regard, petitioner shall be entitled to raise all other pleas available to him, opposing the petition to be filed by respondent, challenging election of the petitioner.

With the above-said observations made and directions issued, the instant revision petition stands disposed of. Pending applications are also disposed of.

19.1.2017
mks

(RAMESHWAR SINGH MALIK)
JUDGE

Whether Speaking/reasoned : Yes/No
Whether Reportable : Yes/No