

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

**CR No.7670 of 2013
Date of decision:20.1.2017**

Ram Singh

...Petitioner

Versus

Ram Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr.Deepender Singh, Advocate for the petitioner.
Mr.Amit Prashar, Advocate for the respondent.

RAMESHWAR SINGH MALIK, J. (Oral)

Present revision petition, at the hands of defendant, is directed against the order dated 3.9.2013 passed by the learned trial Court, whereby instead of allowing the application of the plaintiff-respondent, permitting him to withdraw the suit for permanent injunction with liberty to file fresh suit on the same cause of action but for possession by way of specific performance, learned trial Court treated his application as for amendemnt and permitted the plaintiff to file an amended plaint.

Notice of motion was issued and operation of the impugned order was stayed.

Heard learned counsel for the parties.

Instant revision petition is being disposed of vide following consent order:-

Learned counsel for the petitioner-defendant at the very outset, fairly states that in case application moved by the plaintiff at Annexure P-4, seeking permission of the Court to withdraw his earlier suit for permanent injunction with liberty to file a fresh suit on the same cause of action for possession by way of specific performance, setting aside the impugned order, then defendant-petitioner shall not raise the issue of limitation against the plaintiff-respondent.

Faced with the above, learned counsel for the plaintiff-respondent also fairly states that he is not averse to the request made by the learned counsel for the petitioner and let the instant revision petition be disposed of, in terms of the statement made by the learned counsel for the petitioner.

In view of the above-said respective stands taken by the learned counse for the parties, instant revision petition is allowed. The order dated 3.9.2013 (Annexure P-1) passed by the learned trial Court is hereby set aside. Application (Annexure P-4) dated 1.4.2013, moved by the plaintiff-respondent, seeking permission of the Court to withdraw his suit for permanent injunction with liberty to file fresh suit on the same cause of action for possession by way of specific performance of agreement to sell dated 29.9.2012 is allowed. Plaintiff-respondent is permitted to withdraw his suit with liberty as prayed for. However, it is made clear that if the plaintiff-respondent shall file his fresh suit for possession by way of specific performance of agreement to sell dated 29.9.2012 within a period of one month from today, petitioner-defendant shall not raise the issue of limitation, because palntiff was pursuing the instant litigation in the court.

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

20.1.2017
mks

(RAMESHWAR SINGH MALIK)
JUDGE

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