

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR 2781-2015 (O&M)
Date of decision: 24.04.2018

Gurbux Singh

.....Petitioner

versus

Karam Singh (since deceased) through LR's and others

.....Respondents

CORAM: Hon'ble Mr. Justice Kuldeep Singh

Present: Mr. A.K. Chopra, Senior Advocate with
Ms. Palak Dev, Advocate for the petitioner
Mr. Prateek Gupta, Advocate for respondent nos. 1 and 2

1. *Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
2. *To be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

Kuldeep Singh, J. (Oral)

Impugned in the present revision petition is the order dated 24.12.2014, (Annexure P5), passed by learned Civil Judge (Junior Division), Batala, vide which, while deciding application filed under Order XXIII Rule 1 CPC 1908 by the petitioner-plaintiff for permission to withdraw the suit with liberty to file fresh suit on the same cause of action, permission to file fresh suit on the same cause of action was declined. However, suit was dismissed as withdrawn.

After hearing learned counsel for the parties, I am of the view that the application was to be allowed or dismissed as a whole. The Court cannot partly dismiss the suit and refuse to grant permission to file fresh suit on the same cause of action. If the trial Court was of the view that no such liberty is to be granted, application should have been dismissed. However, suit could not be dismissed on the basis of the said application. Impugned

order is patently illegal and is hereby set aside. The trial Court is directed to re-hear the matter and decide the application afresh in accordance with law.

Revision is allowed accordingly.

24.04.2018

gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:	Yes
Whether Reportable:	No