

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR 4405-2017 (O&M)
Date of decision: 31.05.2018

Sunita Dass

.....Petitioner

versus

Chittaranjan Dass

.....Respondent

CORAM: Hon'ble Mr.Justice Kuldeep Singh

Present: Mr.K.L.Kohli, Advocate for the petitioner
Mr.Ashok Bhardwaj, Advocate for the respondent

- 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 29.3.2017, passed by learned Additional District Judge, Chandigarh, vide which, while the present petitioner was allowed to withdraw the appeal but permission to withdraw the suit was declined.

It comes out that the suit filed by the plaintiff was partly decreed and partly dismissed, against which, plaintiff filed an appeal. During hearing before learned Additional District Judge, Chandigarh, following statement was made by the appellant:-

Statement of Sunita Dass, appellant w/o Chittaranjan Dass r/o House No.204, Hallomajra, UT, Chandigarh

Since the respondent has filed subsequently suit for partition possession and permanent injunction in respect of the same property, the present suit filed by me for declaration and permanent injunction has become infructuous, and therefore I withdraw the same, and I withdraw the present appeal also.

In view of the statement of the appellant, appeal was dismissed as withdrawn but the learned Additional District Judge, Chandigarh found that there is no technical defect in the suit. Therefore, permission to withdraw the suit was not granted.

From the perusal of the file, it comes out that the trial Court has recorded the findings on merits partly in favour of the plaintiff and partly in favour of the defendant. There is no formal defect. Hence, no permission can be granted to withdraw the suit.

It being so, there is no illegality or infirmity in the impugned order.

Accordingly the present revision petition is dismissed.

Learned counsel for the petitioner, faced with these circumstances, contends that he may be allowed to revive the appeal. If the plaintiff wants to revive the appeal, he has to file an appropriate application before the lower appellate Court, stating the grounds on which, he seeks to revive the appeal and it is for the lower appellate Court to decide the same in accordance with law.

31.05.2018
gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:	Yes
Whether Reportable:	No