

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.7191 of 2017 (O&M)
Date of Order:02.04.2018

Paramjit Singh Sangha

..Petitioner

Versus

Charanjit Singh Sangha and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sandeep Bansal, Advocate,
for the petitioner.

Mr. R.Kartikeya, Advocate,
for the respondents.

ANIL KSHETARPAL, J(Oral)

Defendant-petitioner is in revision petition against the order passed by the learned trial court under Order 23 Rule 1 Sub Rule 3 of the Code of Civil Procedure granting permission to the plaintiffs to withdraw the suit with permission to file a fresh suit on the same cause of action.

Plaintiff-respondent has pointed out that there is a formal defect in the suit inasmuch as the decree dated 31.03.1975 has not been challenged.

Learned trial court has allowed the application.

During the course of arguments, learned counsel for the parties have come to a consensus.

It has been agreed that the necessary pleading to challenge the aforesaid decree dated 31.03.1975 passed in Civil Suit no.42/1975 are already available in para 20 of the plaint.

Keeping in view the fact that the civil suit is pending for almost

10 years, the pleadings in para 20 of the plaint would be treated as a challenge to the aforesaid decree. It is further agreed that the impugned order passed by the learned trial court be set aside with a condition that the suit filed by the plaintiff shall not be dismissed on the ground that there is no formal challenge to the aforesaid decree in the prayer clause.

In view of the consensus arrived, the revision petition is disposed of while setting aside the impugned order.

April, 02, 2018
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No