

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

121

CR No.856 of 2018
Date of Decision:12.02.2018

Suresh Kumar and another

...Petitioners

Versus

Municipal Corporation, Gurugram and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ankush Chowdhary, Advocate
for the petitioners.

ANIL KSHETARPAL, J.(Oral)

Plaintiff-petitioner is in the revision petition against the order dated 28.09.2017 allowing the application under Order 6 Rule 17 of the Code of Civil Procedure.

Learned trial Court has held that the alleged admission made by defendant No.2, which is sought to be withdrawn, would have no bearing on the main case as the main contesting defendant in the case is Municipal Corporation, Gurugram. The Court has also noticed that the effect of alleged admission, which has been permitted to be explained away, would be considered at the time of final arguments.

The Court has further noticed that defendant No.2 is only a resident of locality, who was impleaded as party defendant in the suit on his application under Order 1 Rule 10 of the Code of Civil Procedure.

The Court has further noticed that the admission or denial of defendant No.2 is not going to effect the merits of the case. Plaintiff has filed a suit for declaration claiming that there is a passage of 6 karam wide.

Whereas it is the case of defendant No.1 that there is some encroachment.

The Court has noticed that the only issue which requires determination in the suit is whether defendant No.1 has encroached upon street/road or not.

Although, learned counsel for the petitioners has vehemently argued that an admission made by the party cannot be permitted to be withdrawn and, hence, the impugned order is liable to be set aside, however, learned trial Court has already noticed this aspect and has held that a party is at liberty to explain his admission. The Court has further noticed that the alleged admission of defendant No.2 would have no bearing on the decision of the present case because it is defendant No.1, who is contesting respondent.

The trial Court has further noticed that effect of such admission, if any, shall be considered by the Court at the time of arguments.

In view thereof, there is no scope for interference with the impugned order passed.

This revision petition is dismissed.

12.02.2018
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(ANIL KSHETARPAL)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No