

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

135

CR No.8978 of 2017 (O & M)
Date of Decision:15.05.2018

Anu Aggarwal and another

...Petitioners

Versus

Surender Kumar Bhalla and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Madan Gupta, Advocate
for the petitioners.

Mr.Jitender Singh Dadwal, Advocate
for respondent No.1.

ANIL KSHETARPAL, J.(Oral)

Defendants-petitioners are in the revision petition against the order passed by the learned trial Court dismissing the application under Section 10 of the Code of Civil Procedure vide order dated 10.11.2017. Learned trial Court rather than deciding the application under Section 10 of the Code of Civil Procedure has dismissed the application on technical objections i.e. (i) certified copy of the plaint in the other suit filed by the defendants has not been filed; (ii) the application is not supported by an affidavit.

It is not in dispute that a copy of the plaint filed by the defendants was available on the file of the Court. Contents of the aforesaid plaint filed by the defendants were not being disputed by the plaintiffs. Section 10 of the Code of Civil Procedure requires the Court to stay the proceedings in a subsequent suit if the Court comes to a conclusion that

requirements of Section 10 of the Code of Civil Procedure are fulfilled. The Court rather than deciding the application on merits, choose to dismiss the same on technical ground only.

In view of the aforesaid, the order under challenge is set aside. Learned trial Court is directed to re-decide the application under Section 10 of the Code of Civil Procedure on merits without going into the hyper technicalities.

Revision petition is allowed.

15.05.2018
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(ANIL KSHETARPAL)
JUDGE

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