

C.M. No. 12212-C-2018 in/and
RSA No. 1715 of 1988 (O&M)

Date of decision : August 07, 2018

Paramjit Singh and anotherAppellants

Versus

Tilak RamRespondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Ms. Vibha, Advocate
for the appellants.

Mr. S.S. Swaich, Advocate for the respondent.

LISA GILL, J.

This application has been filed seeking withdrawal of the abovesaid Regular Second Appeal, which is listed at serial No. 329 on the regular Board of this Court.

Notice of the application.

Mr. S.S. Swaich, Advocate accepts notice on behalf of non-applicant/respondent.

This appeal has been filed by the appellants, who were defendants before the learned trial Court. Suit for permanent injunction and mandatory injunction filed by the plaintiff-respondent Tilak Ram for restraining the present appellants from encroaching upon the street in dispute and removal of encroachment allegedly made thereon was dismissed on 22.10.1986. Appeal filed by the respondent – plaintiff was allowed vide judgment and decree dated 23.05.1988. Present appeal was, thus, preferred by the defendant-appellants.

It is submitted that actual date notice of the appeal was issued to the appellants for 23.07.2018 as Mr. Manmohan Singh, Senior Advocate

who was earlier representing the appellants has passed away. Appellant No. 2 – mother of appellant No. 1 passed away on 16.12.2006. Copy of her death certificate is attached as Annexure A1 with this application.

It is submitted that appellant No. 1 does not wish to pursue the present appeal as the matter was compromised long ago with the respondent-plaintiff. Appellant No. 2 had two children i.e. appellant No.1 and one daughter who had passed away even prior to the litigation in question and she, in any case, had no concern with the same and is not even a party thereto. Appellant No.2 is not survived by any other legal heir, who is interested in the controversy in hand. It is, thus, prayed, that this appeal be permitted to be withdrawn.

With the consent of learned counsel, the main appeal is taken up for hearing today.

In view of the averments in the application supported by an affidavit of appellant No. 1 and submissions as above, application is allowed. Consequently, present appeal is dismissed as withdrawn.

August 07, 2018
rts

(Lisa Gill)
Judge

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