

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

CM No.16310-C of 2018 in/and
In RSA No.6384 of 2017 (O&M)
Date of decision : 23.10.2018

Kesar Singh

...Appellant

Versus

Gurpreet Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Baljinder Singh, Advocate for the applicant/appellant.

ANIL KSHETARPAL, J. (ORAL)

Since, the defendants were proceeded ex parte before the Courts below, therefore, no notice is required to be issued.

Learned counsel for the appellant has filed an application bearing CM No.16310-C of 2018 under Order 23 Rule 1 Sub-Rule 3 CPC for permission to withdraw the suit on the ground that there is legal defect in filing of the suit. It has been pointed out that unfortunately benefit of provision of Section 53-A of the Transfer of Property Act was neither pleaded nor pressed at the time of framing of the issues/or during arguments.

In the present case, the plaintiff claims that the defendants executed a full payment agreement to sell and certain other documents including the Will, General Power of Attorney etc.

In such circumstances, the prayer made in the application is allowed.

The suit filed by the plaintiff as well as the main appeal is dismissed as withdrawn with a liberty to file fresh one on same cause of action.

23.10.2018
Pawan

(ANIL KSHETARPAL)
JUDGE

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