

In the High Court of Punjab and Haryana at Chandigarh

C.R. No. 2246 of 2015

Date of Decision: February 27, 2019

Dharam Pal and others

... Petitioners

Versus

Ashok Kumar

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Gaurav Singla, Advocate,
for the petitioners.

Mr. Munish Mittal, Advocate,
for the respondent.

Amit Rawal, J. (Oral)

This Court while issuing notice of motion, passed the following order:-

“The petitioners are the defendants who resisted an application filed in the suit for withdrawal with liberty to file a fresh suit. The suit is for partition amongst the members of the family. The petitioners state that the plaintiff's share in the property is admitted. According to the defendants/petitioners, the suit itself was not maintainable since the relief of partition can be given only before the revenue authorities by virtue of provisions of the Punjab Revenue Act.

The petition for withdrawal is based on the assertions that some of the necessary parties were omitted to be impleaded and some of the family properties were also left out. According to the plaintiff, the suit suffers from some technical defects and,

therefore, they sought for permission for withdrawal of the suit from the court, which was allowed.

To me, there can be no objection other than the issue of whether the court should have allowed withdrawal without any direction for payment of costs of what could have been incurred by the defendants by prolonged pendency of the suit before the court below.

Issue notice of motion for 28.5.2015 only for the purpose of considering the manner of how much costs can be imposed as condition precedent for permission to withdraw the suit.”

It is a case where the respondent-plaintiff sought withdrawal of the suit for partition on some technical defects. The impugned order dated 10.03.2015 is upheld. Suit is permitted to be withdrawn with costs of Rs.20,000/- which shall be paid to the petitioner-defendant.

Present revision petition stands disposed of accordingly.

February 27, 2019

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(Amit Rawal)
Judge

Whether speaking / reasoned : Yes

Whether reportable : No