

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.2502 of 2016
Date of Decision: February 27, 2019

Dev Bharat Verma & another

...Petitioners

Versus

Surinder Mohan Verma & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. Jitender Nara, Advocate,
for the petitioners.

AMIT RAWAL, J.

The present revision is directed against the impugned order dated 21.01.2016, whereby on the basis of the statement suffered by the counsel, the suit was permitted to be dismissed as withdrawn.

Mr. Jitender Nara, learned counsel representing the petitioner-defendants submitted the respondent-plaintiffs, in the year 2011, filed the civil suit for possession by way of partition claiming 1/3rd share in the residential house built on a plot measuring 216 square yards marked ABCD as per the site plan consisting of various rooms and open space, situated at Model Town, Yamuna Nagar bearing House No.68-D with consequential relief of permanent injunction restraining the defendants from alienating the suit property. The requirement of Order 23 Rule 1 CPC has not been complied with as nothing has been stated how the suit was having inherent defect or suffering from any technical ground. Defendants have not been

given any opportunity.

On 21.07.2017, there was no representation on behalf of respondent No.1 despite service. Respondent Nos.2 and 3 already ex-parte. Therefore, I proceed to decide the petition on merits.

I have heard the learned counsel for the petitioner-defendants and appraised the paper book.

The impugned order and the statement of the learned counsel read as under:-

“Order dated 21.01.2016

Learned counsel for the plaintiff appeared in the court and made a statement that he does not want to pursue the present suit due to some technical default and withdraws the same. He also prayed for permission to file fresh suit. Heard. Keeping in view the statement, the present suit is dismissed as withdrawn with the liberty to file the fresh suit. File be consigned to record room, after due compliance.”

Statement of the counsel

Statement of Sh.Naresh Sharma Adv for plaintiff.

It is stated that the present suit may kindly be dismissed as withdrawn with liberty to file fresh suit.”

The impugned order passed by the Court while accepting the statement, is bereft of the reasons as to how the suit was suffering from any inherent defect, much less an opportunity of hearing to the petitioner-defendants to rebut the same by citing law.

The impugned order is totally fallacious and preposterous. The courts below should be circumspect in entertaining the application, which is filed without any explanation or reason.

While setting-aside the impugned order, the trial Court is directed to afford opportunity of hearing to the petitioner-defendants and

decide the matter after passing a detailed order.

Revision petition stands allowed.

February 27, 2019
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No