

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

CR No.2233 of 2017

Date of Order: 17.01.2019

Gurvinder Kaur

....Petitioner

Versus

Makhan Singh and Ors.

....Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. J.S. Saggi, Advocate for
Mr. M.K Sajjan, Advocate for the petitioner.

Respondent No.1 died.

None for respondent Nos.2,3,17 to 19 despite being served.

Mr. Anish Setia, Advocate for respondent Nos.11 to 16.

AMIT RAWAL, J (ORAL)

The petitioner has impugned order dated 05.11.2016 passed by learned Civil Judge (Jr. Division), Phul allowing the application of the defendants vide which plaint has been ordered to be returned to the plaintiff.

As per office report, respondent No.1 has since died; respondent Nos.2,3,17 to 19 are reported to have been served but none caused appearance on their behalf; respondent No.5 is stated to have refused to accept summons whereas respondent Nos.6 to 10 and 20 could not be served for want of their correct addresses.

The whole prayer made in the application was for rejection of the plaint but the learned trial Court by passing the impugned order observed that plaint be returned.

Plaint can always be returned when the courts do not have pecuniary and territorial jurisdiction but once sum and substance of the order reveals and reflects the agitation of the defendants for rejection of the plaint, the order impugned cannot be construed to be return of plaint. As per provisions of Sub Section 2 of Section 2 of the Civil Procedure Code, the rejection of plaint tantamount to a decree and thus the impugned order is appealable one.

Faced with the situation, learned counsel for the petitioner seeks permission to withdraw the present revision petition with liberty to file appeal.

Dismissed as withdrawn with the liberty aforesaid.

January 17, 2019
manoj

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable : Yes/No