

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

CR 1238 of 2021

Date of Decision: July 19, 2021

Darshan Singh ...Petitioner
Versus
Rajvinder Singh and others ... Respondents

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. Abhinav Jain, Advocate
for the petitioner.

FATEH DEEP SINGH, J. (Oral)

The matter has been taken up through video-conferencing on account of outbreak of pandemic COVID-19.

The plaintiffs, namely, Rajvinder Singh, Baldev Singh and Gurmail Singh Lambardar now respondents instituted against Darshan Singh, present petitioner then defendant a suit for permanent injunction restraining the defendants from interfering in the peaceful possession of the plaintiffs over the land measuring 02 Kanal 14 Marlas fully detailed and described in the head note of the plaint.

During the course of pendency of the suit, on behalf

of the plaintiffs an application dated 10.02.2021 was moved for withdrawal of the suit. The Court of learned Civil Judge (Junior Division) Faridkot vide impugned order dated 10.02.2021 (Annexure P-3) allowed the application and, thus, suit was dismissed as withdrawn, whereby, liberty too was granted to the plaintiffs to file a fresh suit. It is against this very order, the petitioner/defendant feels aggrieved and has come in the instant revision.

Order XXIII CPC lays down that where the Court is satisfied that there are sufficient grounds for allowing the plaintiffs to institute a fresh suit for the subject matter of the suit or part of the plaint it may grant permission to withdraw from such suit. The main grouse of the revisionist that suit was at the stage of defendant's evidence does not impress the Court much, firstly, on the score that it is a simplicitor suit for permanent injunction which can be filed any number of times on recurring cause of action and secondly that it is plaintiffs who have moved the application for withdrawal of the suit. The plaintiffs being masters of this suit are at liberty to withdraw the same and it is the power of the Court to grant permission to withdraw from such a suit and too give liberty to the plaintiffs to institute a fresh suit. Merely, because the suit was at the stage of evidence does not create a bar or an impediment in passing

such an order.

No apparent prejudice has been caused to the petitioner necessitating intervention by this Court.

The revision being wholly without merits stands dismissed in *limine*.

July 19, 2021
amit rana

(FATEH DEEP SINGH)
JUDGE

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