

DATE OF DECISION: 16.12.2021

Versus

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

(Presence marked through video conferencing).

ARUN MONGA, J. (ORAL)

Assailed herein is an order dated 24.08.2021 (Annexure P-3) passed by learned Additional District Judge, Sonapat, vide which application of the petitioners for withdrawal of the appeal as well as civil suit has been partly allowed and relief qua withdrawal of civil suit with liberty to file a fresh suit on the same cause of action has been declined.

2. Brief facts of the case are that petitioners filed civil suit for mandatory and permanent injunction which was dismissed by learned Civil Judge (Junior Division), Sonapat vide judgment and decree dated 24.03.2017. Feeling aggrieved against the same, petitioners preferred appeal challenging the impugned judgment and decree dated 24.03.2017.

3. During the pendency of appeal, petitioners filed an application seeking permission to withdraw the suit as well as appeal with permission to file a fresh suit. Notice of the application was given to the

respondents, who appeared and filed reply denying the averments contained in the application.

4. Vide impugned order dated 24.08.2021 (Annexure P-3), learned Additional District Judge, Sonapat has partly allowed the application and the appeal has been dismissed as withdrawn, but relief qua liberty to file a fresh one on the same cause of action has been declined. Hence, the instant revision petition.

5. Learned counsel argues that no prejudice would be caused to the respondents if petitioners are allowed to file a fresh suit with same cause of action.

6. I have heard learned counsel for the petitioners and have gone through the case file.

7. Once the matter has already been adjudicated before the Courts below, allowing the application, at this stage, would amount to restart the entire litigation on the same set of facts. No fault can be found with the approach of learned First Appellate Court in disallowing the prayer for liberty to file a fresh civil suit on the same cause of action.

8. In the premise, I find no grounds to interfere in the findings rendered by the Courts below. Hence, the instant revision petition is dismissed.

DECEMBER 16, 2021
Shalini

(ARUN MONGA)
JUDGE

Whether speaking/reasoned :
Whether reportable :

Yes/No
Yes/No