

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CR-7467 of 2016 (O&M)  
Date of decision:29.03.2022

Jaskaranjit Singh

...Petitioner

Versus

Davinder Kaur and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

**Present:** Mr. Ramandeep Singh, Advocate,  
for the petitioner.

Mr. Prateek Mahajan, Advocate and  
Ms. Baani Chhibber Mahajan, Advocate  
for respondent no.1.

**ANIL KSHETARPAL, J (Oral)**

The petitioner assails the correctness of the order passed by the Additional Civil Judge (Sr. Divn.), Sangrur, on 14.07.2016, while permitting the respondent to withdraw his suit with liberty to file a counterclaim in the cross appeal.

Some facts are required to be noticed.

The respondent-Davinder Kaur filed a civil suit on 28.09.2012 for grant of a decree of possession. She claims to be the owner of the property. In the aforesaid suit, Sh. Jaskaranjit Singh was one of the defendant. The issues were framed on 13.11.2014. In the meantime, certain part of the land in dispute was acquired for public purposes. Sh. Jaskaranjit Singh filed a suit on 29.01.2015. Smt. Davinder Kaur was one of the defendant in the subsequent suit, who while filing her written statement also

filed a counterclaim in the said suit. Prior to that, she had filed an application for permission to withdraw her suit dated 28.09.2012 in order to file a counterclaim in the later suit. The application has been allowed. Previously also, both the suits were being tried by the same Presiding Judge.

This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paper book.

The learned counsel representing the petitioner contends that the counter claim filed by the respondent is beyond the prescribed limitation and the respondent has not fulfilled the requirements of Order 23 Rule 1(3) CPC.

The facts noticed above are not disputed. However, after Smt. Davinder Kaur filed the suit, there has been a subsequent development which necessitated Smt. Davinder Kaur either to amend the plaint or file a fresh suit.

The trial Court in its discretion has permitted Smt. Davinder Kaur to withdraw the suit as she has already filed the written statement along with a counter claim in the suit of the defendant. The entire dispute can be resolved by the Court in the suit filed by Jaskaranjit Singh without prejudice.

Keeping in view the aforesaid facts, no ground to interfere in exercise of jurisdiction under Article 227 of the Constitution of India is made out. However, the petitioner shall have liberty to object to the maintainability of the counter claim on the ground of limitation.

The trial Court is requested to make sincere endeavours for expeditious conclusion of the trial.

Disposed of accordingly.

All the pending miscellaneous applications, if any, are also disposed of.

**March 29, 2022**  
**nt**

**(ANIL KSHETARPAL)**  
**JUDGE**

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