

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

CR-7926-2017 (O&M)

Date of decision: 23.08.2022

Shami Ahmed and others

....Petitioners

Versus

Punjab Wakf Board and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Ms.Promila Nain, Advocate for the petitioners
Mr. S.K.Jain and
Mr. Akshay Jain, Advocates for the respondents

ANIL KSHETARPAL, J (Oral)

While declining permission to withdraw the original suit with liberty to file a fresh suit on same cause of action, the First Appellate Court has permitted the petitioners to withdraw the appeal. The correctness of the order has been challenged.

The petitioners filed an application before the First Appellate Court with the following prayer:-

“It is, therefore, prayed that the permission to withdraw the present suit with liberty to file the fresh suit on the same cause of action may kindly be granted in the interest of justice.”

The Appellate Court could have dismissed the application but it was not justified in permitting the withdrawal of the appeal without granting permission to file a fresh one. The prayer was a joint prayer which could either have been allowed in entirety or rejected in totality.

Hence, the order under challenge is set aside. The first

appeal is restored to its original number. The parties through their learned counsels are directed to appear before the First Appellate Court on 30.09.2022.

The revision petition stands allowed.

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

23.08.2022

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE