

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

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**CR-802 of 2021(O&M)
Date of Order: 27.04.2022**

Jaswant Kaur and others

..Petitioners

Versus

Gurmeet Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rakesh Chopra, Advocate and
Mr. Jashan Chopra, Advocate
for the petitioners.

Mr. Ranjit Saini, Advocate
for the respondents.

ANIL KSHETARPAL, J(Oral)

While assailing the correctness of the order passed on 05.03.2021, the plaintiffs have filed the present revision petition. They filed a suit for declaration to the effect that a land measuring 8 bighas and 7 biswas is joint ancestral coparcenary property along with consequential relief of permanent injunction restraining defendant no.1 from alienating the property.

During the pendency of the suit, defendant no.1 alienated the property. An application filed by the petitioners for permission to withdraw the suit with liberty to file fresh one with better particulars in order to challenge the sale deed executed by defendant no.1 on the ground that it is without legal necessity, has been dismissed by the trial Court.

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 petitioners contends that there are formal defects and in view of the subsequent development, the plaintiffs are required to lay challenge to the sale deed which was executed

during the pendency of the suit by defendant no.1. He submits that in absence of pleadings to the fact that the sale deed was without legal necessity, the suit filed by the plaintiffs has rightly been dismissed. He further contends that the learned trial court has not recorded any reason for dismissing the application.

Per contra, the learned counsel representing the respondents submits that the reasons given in the application for permission to withdraw the suit are incorrect.

Be that as it may. When there is a subsequent development and the plaintiffs are required to plead and prove that the sale deed executed by defendant no.1 is without legal necessity, the order under challenge is not sustainable.

Keeping in view the aforesaid facts, the revision petition is allowed. The order dated 05.03.2021 is set aside. The application filed by the petitioners for permission to withdraw the suit with liberty to file fresh one with better particulars is allowed.

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

April 27, 2022

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(ANIL KSHETARPAL)
JUDGE

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