

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

Sr. No.114

CR-4634-2022

Date of Decision: 10.11.2022

Baldev Grover and another

.... Petitioners

Versus

Rajesh Kumar Saraswati and others

... Respondents

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Munish Kumar Garg, Advocate
for the petitioners.

TRIBHUVAN DAHIYA, J. (ORAL)

This petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 25.07.2022, by which the respondent/plaintiff has been allowed to withdraw the suit with liberty to file a fresh one on account of technical defect of mis-joinder of necessary parties to the suit.

Learned counsel for the petitioners contends that the permission to file fresh suit has been wrongly granted by trial Court since there was no averment in the application filed for withdrawing the suit regarding technical/formal defect.

It could not be disputed by the learned counsel that the suit for mandatory injunction directing defendants No.1 and 2 to cancel the Trust Nama bearing Vasika No.1657 dated 04.07.2016 was filed without impleading the Trust “Shri Prachin Panchmukhi Shiv Mandir Johadwala and Shiva Sankirtan Mandir Trust”, which was a necessary party.

It is, therefore, apparent that there was a technical defect in filing the suit, as without impleading the Trust the suit was not maintainable. In case the trial Court has allowed the respondent/plaintiff to withdraw the suit with liberty to file a fresh one after correcting the technical error, no exception can be taken to the same.

Petition stands dismissed.

(TRIBHUVAN DAHIYA)
JUDGE

10.11.2022
Maninder

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