

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

152

CR-1914-2023 (O&M)
Date of decision: 19.10.2023

BALBIR KAUR

....Petitioner

Versus

DALJIT SINGH AND ORS

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr.Amit Dhawan, Advocate for the petitioner.

Mr. Ramesh Sharma, Advocate for the respondents.

ANIL KSHETARPAL. J.(Oral)

1. The petitioner before this Court has filed a suit for grant of decree of permanent injunction. The aforesaid suit is pending before the trial Court. During the pendency of the suit, she filed an application under Order XXIII Rule 1 (3) of the Code of Civil Procedure for permission to withdraw the suit with liberty to file a fresh one. It has been asserted that now she wants to file a suit for declaration on the basis of Will dated 05.08.1988. The learned trial Court has disposed of the application with the following observations:-

“The cause of action for filing the suit for declaration on the basis of will dated 05.08.1988 cannot be same for filing the present suit i.e. for decree of permanent injunction. However plaintiff is at liberty to withdraw the present suit simply and to file a suit for declaration on the basis of will dated 05.09.1988 on the cause of action arose to him for filing said suit of declaration subject to provisions of law of limitation. The application in hand stands disposed of accordingly. Case is now adjourned to 30.11.2022 for consideration on the application filed by plaintiff U/o 11 Rule 14 and 15 of CPC.”

2. In view of the aforesaid observations the petitioner is required to take

a decision. In these circumstances no ground to interfere with the order passed by the trial Court.

3. Dismissed.

(ANIL KSHETARPAL)
JUDGE

19.10.2023
Amandeep

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No