

CR-2145-2023

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2023:PHHC:066412

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

283

CR-2145-2023

Date of Decision :08.05.2023

Manjit Kaur

....Petitioner

Versus

Jasvir Kaur and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Siddharth Gupta, Advocate for the petitioner.

Mr. Deepak Aggarwal, Advocate for respondents No.1 to 3.

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Harsimran Singh Sethi, J. (Oral)

Present petition has been filed for setting aside order dated 06.03.2023 (Annexure P-1) passed by the Additional Civil Judge (Senior Division) Phul, District Bathinda.

In the present petition, the grievance raised by the petitioner-plaintiff is that in the application filed by her for withdrawing the suit with liberty to file fresh one, an order has been passed by the trial Court that the suit has been withdrawn but no liberty was given to file a fresh one.

Learned counsel for the petitioner-plaintiff submits that the prayer raised by the petitioner-plaintiff before the trial Court should have been accepted or rejected in total by the trial Court and the petitioner-plaintiff cannot be left in lurch as the suit filed by her has been treated to be

withdrawn but without liberty to file a fresh suit.

Learned counsel for the respondents on the other hand submits that a relief was sought by the petitioner-plaintiff and the Court in its wisdom passed an appropriate order, which the Court deemed fit.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

Once, an application was filed for withdrawal of the suit with a condition that applicant should be given liberty to file a fresh one on the same cause of action, either the said application should have been accepted or rejected but the impugned order passed so as to treat the suit having been withdrawn without giving liberty to file fresh one, the trial Court has made an error while passing the impugned order. Hence, the impugned order dated 06.03.2023(Annexure P-1) is set aside with liberty to the trial Court to pass a fresh order on the application submitted by the petitioner-plaintiff seeking withdrawal of the suit with liberty to file fresh one.

Present petition stands allowed in above terms.

May 08, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

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