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

**CR-5897-2023 (O&M)**

Date of Decision:- 16.10.2023

**VIPRA VAID**

...Petitioner

Vs.

**ASHOK KUMAR VAID AND OTHERS**

...Respondents

**CORAM:-HON'BLE MS. JUSTICE AMARJOT BHATTI**

Present: Mr. G.S. Kaura, Advocate for the petitioner.

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**AMARJOT BHATTI, J. (Oral)**

1. The petitioner – Vipra Vaid has filed civil revision petition under Article 227 of the Constitution of India read with Section 151 CPC for quashing of order dated 21.08.2023, Annexure P-5, passed by learned Additional District Judge, Panipat in Civil Appeal No.204 of 2022 titled as Vipra Vaid Vs. Ashok Kumar Vaid and Anr.

2. It is pointed out that civil suit bearing CS-1486-2016 filed by Vipra Vaid was dismissed vide judgment and decree dated 18.11.2022. Feeling aggrieved of this judgment, civil appeal was filed in which the appellant/plaintiff had filed application under Order 41 Rule 5 and under Order 39 Rules 1 and 2 read with Section 151 CPC. The said application was declined by passing impugned order dated 21.08.2023 as the appellant/plaintiff wrongly filed application under Order 41 Rule 5 read with Section 151 CPC. It is prayed that the impugned order passed by the learned Additional District Judge, Panipat may be set aside with the prayer

for disposal of application under Order 39 Rules 1 and 2 read with Section 151 CPC. Hence the present revision petition.

2. I have considered the arguments advanced by learned counsel for the appellant/plaintiff. Learned counsel for the petitioner admitted that he wrongly filed application under Order 41 Rule 5 CPC as the suit filed by the plaintiff was dismissed vide judgment and decree dated 18.11.2022. In-fact he was pressing upon his application under Order 39 Rules 1 and 2 read with Section 151 CPC. The copy of application is Annexure P-4. In case the present petitioner wrongly filed application under Order 41 Rule 5 then he could have withdrawn the said application and could have filed fresh application under Order 39 Rules 1 and 2 read with Section 151 CPC. As such the impugned order dated 21.08.2023, Annexure P-5, passed by learned Additional District Judge, Panipat requires no interference. However, the present petitioner can file fresh application under Order 39 Rules 1 and 2 read with Section 151 CPC which the learned Additional District Judge, Panipat is required to dispose of, as per law.

3. The present civil revision petition stands disposed of accordingly.

Pending application (s), if any, also stands disposed of.

16.10.2023

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**(AMARJOT BHATTI)**  
**JUDGE**

Whether speaking/reasoned: Yes/No.

Whether reportable: Yes/No