

In the High Court of Punjab and Haryana, at Chandigarh**Civil Revision No. 7226 of 2017****Date of Decision: 12.10.2023**

Tuli

... Petitioner(s)

Versus

Roop Chand and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Tanmoy Gupta Advocate
for the petitioner(s).

Mr. Rakesh Kumar Sharma, Advocate
for the respondents.

Anil Kshetarpal, J.

1. The petitioner herein was the plaintiff. He had filed a suit for the grant of decree of mandatory injunction and permanent injunction.
2. During the pendency of the suit, the petitioner had filed an application for withdrawal of the suit with permission to file a fresh one on the same cause of action. The trial Court held that the plaintiff has failed to prove any formal defect in filing of the suit. However, the trial Court has bifurcated the prayer and dismissed the suit as withdrawn without granting permission to file a fresh suit. The prayer in the application was a joint prayer, namely to withdraw the suit with permission to file a fresh one. Once the prayer for filing a fresh suit on the same cause of action was not accepted, the trial Court was not justified in segregating the prayer in this manner.

Keeping in view the aforesaid facts, the present revision is

Civil Revision No. 7226 of 2017

allowed. The impugned order is set aside. The application filed by the plaintiff for permission to withdraw the suit with permission to file a fresh suit on the same cause of action shall stand dismissed. However, the suit shall stand restored to its original number.

(Anil Kshetarpal)
Judge

October 12, 2023
“DK”

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