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

CR-7775-2023 (O&M)
Date of decision: 25.09.2024

Jaidev and another

...Petitioners

Versus

Jagdev Kumar

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Onkar Rai, Advocate for the petitioners.

Mr. Vishal Sharma (Vasudeva), Advocate for the respondent.

VIKAS BAHL, J. (ORAL)

1. This is a revision petition filed under Article 227 of the Constitution of India for setting aside the impugned order dated 26.09.2023 (Annexure P-6) passed by the Civil Judge (Senior Division), Nangal, District Rupnagar, vide which an application filed under Order 23 Rule 1(3) read with Section 151 of CPC has been allowed.

2. Learned counsel for the petitioners has submitted that in the present case, along with the suit filed by the respondent, an application under Order 39 Rules 1 and 2 of CPC was also filed which was dismissed vide order dated 01.04.2023 (Annexure P-5) and thereafter, an application for withdrawal of the suit had been filed with liberty to file a fresh suit. It is further submitted that the primary grievance of the petitioners is that once



fresh suit has been permitted to be filed then it would be open to the respondent-plaintiff to file a fresh application for stay and the right which has accrued to the petitioners would be prejudiced.

3. Learned counsel appearing on behalf of sole respondent has submitted that although, the respondent-plaintiff has filed an application under Order 39 Rule 1 and 2 CPC in the fresh suit but he would not press the stay application and would not press for any interim stay in the second suit.

4. The said statement made on behalf of learned counsel for the respondent satisfies learned counsel for the petitioners.

5. During the course of arguments, it has been jointly prayed that the impugned order be upheld and respondent be permitted to pursue the fresh suit which has been filed by him but respondent, as undertaken before this Court, would not press for stay during the pendency of the second suit.

6. Keeping in view the abovesaid facts and circumstances, the present revision petition is disposed of while upholding the order dated 26.09.2023 but with a condition that respondent-plaintiff, as undertaken before this Court, would not press for any interim stay in the second suit.

7. All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

25.09.2024

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No