

CR-7246-2018

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

107-2.

CR-7246-2018

Date of decision:19.03.2025

GURDEV SINGH

...PETITIONER

VS.

GURJIT SINGH & ORS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. G.S. Punia, Sr. Advocate with
Ms. Harveen Kaur, Advocate
for the petitioner.

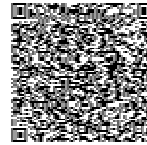
None for respondents No.4 & 16 to 18.

Mr. Aman Sharma, Advocate
for respondent No.20-GLADA.

SUVIR SEHGAL, J.

1. Aggrieved of order dated 27.09.2018, Annexure P-1, whereby an application filed by the plaintiffs under Order 23, Rule 1, 3 (a) CPC, for permission to withdraw the suit has been declined, petitioner/plaintiff No.4 has approached this Court by way of instant revision petition.

2. Learned senior counsel for the petitioner states that plaintiffs filed a suit for declaration to the effect that they are absolute owners of the suit land and defendants, whose names appear in the column of ownership in the revenue record have no right, title or interest in the property. It has been

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asserted that the plaintiffs are entitled to get the awarded amount from respondent No.19 for the acquired land and for restraining the respondents from alienating any portion of the suit property. He submits that the suit is being contested and written statement has been filed by some of the respondents. In particular, by making a reference to the written statement filed by defendants No.5 and 6 as well as defendant No.20, counsel points out that a preliminary objection was raised that jurisdiction of the civil court is barred in view of the provisions of the Land Acquisition Act, 1894 (for short “1894 Act”) and that any dispute regarding disbursal of compensation is to be determined under Section 30, *ibid*. He asserts that as the civil suit was not maintainable, an application under Order 23, Rule 1 and 2 read with Rule 3-A was filed on behalf of the plaintiffs for withdrawal of the suit with permission to file a fresh one on the same cause of action, but it has been illegally rejected by the impugned order. Learned senior counsel states that as a fresh suit is not maintainable in view of the bar, permission will be granted to the plaintiffs to avail the remedy available to them in accordance with law.

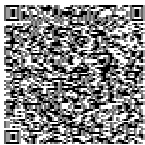
3. Counsel for respondent No.20-GLADA states that he does not have any objection, in case, the prayer is accepted. Remaining/contesting respondents are unrepresented, despite service.

4. I have heard counsel for the parties and considered their respective submissions besides examining the paper-book with their able assistance.

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5. Plead case of the plaintiffs is that the suit land was purchased by Bachan Singh and Teja Singh, predecessor of the plaintiffs, from Gurmukh Singh and the land was acquired by GLADA – respondent No.20 for a public purpose viz construction of a road. An award has been passed by the Land Acquisition Collector and when the compensation for the acquired land was to be disbursed to the plaintiffs, defendants No.1 to 18 raised an objection and even filed a civil suit, which is pending. Claiming that they are entitled to the awarded amount, plaintiffs filed the suit, Annexure P-2. Upon being served, suit has been contested by the defendants on various counts. They have raised an objection that suit is not maintainable as the land has been acquired under the 1894 Act and any dispute regarding apportionment of compensation has to be settled under Section 30 of the said Act. As the suit was not maintainable, application was filed by the plaintiffs for its withdrawal. Although, it was prayed that the plaintiffs be permitted to withdraw the suit with liberty to file a fresh one on the same cause of action, but stand taken before this Court is that as the civil suit is not maintainable, liberty be granted to avail the remedy available to the plaintiffs in accordance with law.

6. It cannot be disputed that the plaintiffs do not have the remedy of filing a civil suit. 1894 Act is a complete code in itself and any dispute regarding the compensation amount or its disbursal and apportionment has to be decided as per the provisions of the said Act. In this background, the request made by counsel for the petitioner deserves to be acceded to.



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7. For the foregoing reasons, revision petition is allowed and impugned order, Annexure P-1, is set aside. Application filed by the plaintiffs is accepted. Plaintiffs are permitted to withdraw the civil suit with liberty to take recourse to the remedy available to them in accordance with law.

19.03.2025
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(SUVIR SEHGAL)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No