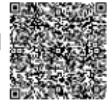


**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

113

2025:PHHC:072741



SAO-11-2021 (O&M)
Date of decision: 27.05.2025

RAMESH CHAND

..Appellant

Versus

PUNIT AND ORS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sudhir Aggarwal, Advocate
for the appellant.

Mr. Kulbhushan Sharma, Advocate
for respondents.

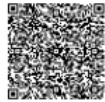
ANIL KSHETARPAL, J(Oral)

1. In the peculiar facts of this case, this Court is required to advance the cause of justice by molding the relief. Originally, the plaintiff filed a suit in the Court of Civil Judge, Senior Division, Nuh, for declaration with respect to property constituted in Nuh as well as Faridabad. The defendant objected to the maintainability of the suit by filing an application under Order VII Rule 11 of the Code of Civil Procedure, 1908, with respect to property located in Faridabad.

2. Under a mistaken relief, the plaintiff withdrew the suit qua property located at Faridabad and thereafter, filed a fresh suit at Faridabad, which has been dismissed by both the Courts below on the ground that the plaintiff did not seek permission of the Court to file a fresh suit while partly withdrawing the suit at Nuh.

3. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

4. The suit filed by the plaintiff in the Court of Civil Judge, Senior Division at Nuh has already been decided.



5. On the other hand, as per Section 17 of the Code of Civil Procedure, 1908, the plaintiff's suit at Nuh was maintainable with respect to properties situated at Nuh and Faridabad.

6. The plaintiff cannot be left without remedy. The appeal filed by the plaintiff with respect to the property situated in Nuh is pending. Both the suit filed by the plaintiff, one at Nuh and second at Faridabad, are based on the same cause of action.

7. Keeping in view the aforesaid position, the interest of justice would be met if the plaintiff is permitted to prosecute his suit before the First Appellate Court at Nuh with respect to properties located in Nuh as well as at Faridabad.

8. This order has been passed in an extra ordinary situation, which calls for an unusual relief.

9. The First Appellate Court is requested to permit the plaintiff to prosecute his original suit while ignoring the order permitting the plaintiff to withdraw the suit qua the properties located at Faridabad.

10. If the parties make out a case for leading some additional evidence, which is necessary for the disposal of the case, the Court will grant the necessary permission.

11. The parties through their learned counsel are directed to appear before the First Appellate Court on 09.07.2025.

12. All the pending miscellaneous applications, if any, are also disposed of.

May 27th, 2025

Ayub

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

(ANIL KSHETARPAL)
JUDGE