



CR-5880-2023

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

(109)

CR-5880-2023

Date of decision: - 27.01.2025

Gurdeep Singh and others

....Petitioners

Versus**Avtar Singh and others**

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. R.V.S. Chugh, Advocate,
for the petitioners.

VIKAS BAHL, J. (ORAL)

1. Present civil revision has been filed under Article 227 of the Constitution of India for setting aside the impugned order dated 03.02.2023 (Annexure P-5) passed by the District Judge, Mansa, vide which the appeal dated 01.08.2022 (Annexure P-4) filed by the petitioners/defendants against the order dated 01.07.2022 (Annexure P-3) passed by the Additional Civil Judge (Sr. Division), Sardulgarh has been dismissed and the order passed by the trial Court in the application under Order 39 Rule 1 and 2 CPC read with Section 151 CPC filed by the respondents/plaintiffs has been affirmed.

2. Learned counsel for the petitioners has submitted that by virtue of the impugned order, detailed observations have been made and at this stage, since the suit is of the year 2021, the petitioners only press



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that the impugned order which has been passed while deciding the application under Order 39 Rule 1 and 2 CPC should not be construed as an expression of the final opinion of the case and the petitioners be permitted to withdraw the present revision petition with liberty to raise all pleas which are available to them during the course of trial and the case be finally adjudicated without being prejudiced by the observations made in the impugned order.

3. A perusal of the impugned order would show that it had been observed that the observations would not effect the final decision of the suit on merits. At any rate, it is a matter of settled law that the observations which had been made in the order while deciding the application under Order 39 Rule 1 and 2 CPC are not the final expression on merits of the case and the suit is to be decided independently, dehors of the observations made in the application under Order 39 Rule 1 and 2 CPC. The said aspect is further clarified and the trial Court is directed to decide the main suit independently, on the basis of the arguments, pleadings as well as the evidence led by both the parties.

4. In view of the above, the present revision petition is dismissed as withdrawn, with the aforesaid liberty.

January 27, 2025
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No