



CR-1165-2022 (O&amp;M)

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

(205)

**CR-1165-2022 (O&M)**  
**Date of decision:- 13.01.2025**

**Raj Singh****... Petitioner****Versus****Gurcharan Singh and others****... Respondents****CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL**

Present:- Mr. Satbir Gill, Advocate  
for the petitioner.

Mr. P.S.Jammu, Advocate  
for the respondents.

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**SUVIR SEHGAL, J. (ORAL)**

1. Challenge in the instant revision petition filed under Article 227 of the Constitution of India is to order dated 15.11.2019, Annexure P-1, passed by the learned Additional District Judge, Sirsa.
2. Counsel for the petitioner submits that the plaintiffs-respondents No.1 and 2 had filed a suit for possession of a plot claiming that they were the lawful owners and for restraining the defendant No.1-petitioner from raising any construction thereon. Suit was contested by the petitioner and Trial Court dismissed the suit by judgment and decree dated 17.05.2016, Annexures P-2 and P-3. During the pendency of the appeal, respondents No.1 and 2 made a statement and withdrew the appeal with permission to file a fresh suit. Counsel for the petitioner has contended that the suit could not be permitted to be withdrawn at the appellate stage as that would

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virtually destroy the decree and the rights, which have accrued to the petitioner. It is his argument that respondents never sought permission to file a fresh suit.

3. While opposing the petition, counsel for respondents submits that there were technical defects in the suit for which reason, the respondents No.1 and 2 had no other option, but to withdraw the civil suit with liberty to file a fresh one.

4. I have heard counsel for the parties and considered their respective submissions.

5. A perusal of the impugned order, Annexure P-1, shows that while recording the statement of counsel for the respondents No.1 and 2, the Trial Court had mentioned that he has sought permission to withdraw the appeal, but while dismissing the appeal, the learned Additional District Judge, Sirsa has given permission to the said respondents to file a suit afresh. This has been observed as per the statement recorded by one of the respondents before the learned Additional District Judge, Sirsa. The statement recorded before the learned Additional District Judge, Sirsa, in vernacular, deserves to be noticed and when translated, it reads as under:-

*“Statement of Gurcharan Singh s/o Gurbaksh Singh age about 70 years, resident of Phaggu, District Sirsa together with Advocate Sh. M.M. Parik, Advocate - Appellant.*

*It is stated that we withdraw our appeal due to technical fault and due to the demarcation report not being as per rules. The demarcation be got done again and we may be given permission to file the suit again.*



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RO&AC  
Sd/- Darshan Singh  
(in Hindi)  
Sd/- (illegible)

Sd/-  
(Manish Kumar)  
Addl. District Judge  
Sirsa  
15-11-19”

6. It is, therefore, evident from the above that respondents had sought permission to withdraw the appeal with liberty to file a fresh suit. The statement was recorded and the order was passed in the presence of the counsel for the petitioner. Neither the petitioner nor his counsel raised any objection to the grant of the liberty by the learned Additional District Judge, Sirsa. Petitioner is, therefore, barred from raising this plea by way of the present revision petition. No interference is called for in the impugned order. Petition is devoid of merit and it is dismissed.

7. Pending applications are disposed off.

13.01.2025  
Kamal

(SUVIR SEHGAL)  
JUDGE

|                           |        |
|---------------------------|--------|
| Whether Speaking/Reasoned | Yes/No |
| Whether Reportable        | Yes/No |