

[338] IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-6573-2025 (O&M)

Date of Decision : 08.04.2026

Ran Singh and another ...Petitioners

versus

Master Vedant and another ...Respondents

Coram : **HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. Amar Vivek Aggarwal, Advocate for the petitioners.

Mr. Nipun Vashist, Advocate and Ms. Vini Mahajan, Advocate
for respondent No.1.

PANKAJ JAIN, J. (ORAL)

[1] The present revision petition is directed against Order dated 14.08.2025 (Annexure P-1) whereby an application filed under Order XXIII Rule 3 CPC seeking withdrawal of the suit has been allowed while the suit was at penultimate stage fixed for rebuttal evidence. The operative part of the Order reads as under:-

“4. The expression “formal defect” must be given a wide and liberal meaning. The term “sufficient ground” used in second part of the provision needs to be liberally interpreted. The Court cannot go into the merits of the plea on which the plaintiff seeks to file a fresh suit and the Court cannot insist on proving such plea in the present suit itself. It is for the plaintiff to establish his case by adducing relevant evidence in a freshly instituted case. All that the Court needs to be satisfied is that whether the suit suffers from formal defect or that there are sufficient grounds for allowing the plaintiff to institute a fresh suit. Relied upon Telgu Chinna Thirupathaiah Vs. Boya Nadipi, 2013(4) Andh LD 814; Daulat Ram Vs. Smt. Janki Devi, 1994(3) SimLJ 2227.”

[2] Counsel for the petitioners submits that the failure of the plaintiff to prove the family settlement cannot constitute as a “formal defect” and thus the order cannot be sustained.

[3] *Per contra*, counsel for respondent No.1 submits that after order dated 17.09.2025 was passed by this Court, the petitioners are bent upon disposing off the property and executed an agreement even though there was an interim injunction granted in favour of the respondent-plaintiff.

[4] Having heard counsel for the parties and after carefully perusing records of the case, this Court finds that the Trial Court erred in construing the failure of the plaintiff to prove the family settlement as a “formal defect” and that too after the plaintiff had already been granted numerous opportunities to lead his evidence.

[5] In view thereof, this Court finds that the impugned order dated 14.08.2025, allowing the application filed by the plaintiff under Order XXIII Rule 3 CPC, cannot be sustained and is hereby *set aside*.

[6] The Trial Court is directed to proceed with the Trial of the suit from the stage it was prior to the filing of the application by the plaintiff under Order XXIII Rule 3 CPC.

[7] The parties to appear before the Trial Court on 27.04.2026.

[8] The present revision petition stands **disposed off**.

(PANKAJ JAIN)
JUDGE

08.04.2026

'R. Sharma'