
(1996) 08 P&H CK 0170
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 3428 of 1995

Bhagwan Dass and Another	Vs	APPELLANT
The State of Punjab and Others		RESPONDENT

Date of Decision : 02-08-1996

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 23 Rule 1(3)

Citation : (1997) 1 CivCC 72 : (1996) 114 PLR 699(2) : (1997) 1 RCR(Civil) 499

Hon'ble Judges : N.K. Agrawal, J

Bench : Single Bench

Advocate : T.S. Mangat, for the Appellant; K.K. Beniwal, D. A. G., for the Respondent

Judgement

N.K. Agrawal, J.—Heard the counsel for the parties.

2.The precise question in this revision petition is that the plaintiffs had not given a notice u/s 80, Code of Civil Procedure, and, for that reason, an application was filed to withdraw the suit with permission to file a new suit on the same cause of action. From the narration recorded by the Additional Senior Sub Judge on 3.5.1995, it is apparent that the counsel for the plaintiffs wanted permission to withdraw the suit with permission to file fresh suit on the same cause of action. The learned trial Court, however, dismissed the suit as withdrawn without recording permission to file fresh suit on the same cause of action.

3. Since the suit was found not to be maintainable on the ground that a notice u/s 80, Code of Civil Procedure, had not been given to the State of Punjab, it was for that specific reason that the Suit was sought to be withdrawn. Therefore, there were no reasons to withhold permission for filing fresh suit on the same cause of action.

4. The learned counsel for the defendant-State of Punjab has informed that he has no instructions.

5. The plaintiffs-petitioners are, therefore, permitted to file fresh suit on the

same cause of action. The petition stands disposed of accordingly.