

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

C.M. No. 13300-C of 2017 in/and

RSA No. 1410 of 2017

Date of decision: 27.11.2020

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Jagdish

....Appellant(s)

Versus

Nathu Ram and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. A.S. Tewatia, Advocate, for the applicants-respondents.

Mr. P.K. Ganga, Advocate, for the non-applicant/appellant.

(Proceedings are conducted through video
conferencing as per instructions).

G.S.SANDHAWALIA, J. (Oral)

Application i.e. C.M. No. 13300-C of 2017 has been filed for vacation of stay, notice of which was issued on 06.11.2017. No reply has been filed by counsel for the appellant in spite of the fact that Mr. P.K. Ganga, Advocate had put in appearance on 15.12.2017.

Mr. A.S. Tewatia, Advocate counsel for the respondents-plaintiffs submits that he wishes to withdraw the suit itself which is pertaining to a dispute regarding a passage which was decreed in his favour on 20.02.2016. Thereafter, the appeal was also dismissed by the Additional District Judge, Sirsa on 21.02.2017.

Resultantly, operation of the impugned judgment and decree was ordered to be stayed at the instance of the appellant on the ground that additional evidence had been referred to that there was an admission that no passage had been provided during consolidation and the path had been created by purchase of land. In the application for vacation of stay, it has been mentioned that the plaintiff had filed a petition under Section 42 of the

East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act,

1948 before the Commissioner on 06.11.2015 on coming to know from the statement of the Patwari Halqa that no path had been allotted to him. Thus, he claimed entitlement to the two *karams* vide path through Square No. 91, Killa No. 1, 2, 3 / 1 from the path left in consolidation Khasra No. 184.

The matter has been remanded to the Tehsildar-cum-Consolidation Officer who has passed the order dated 15.03.2017 (Annexure R-1). It has been thus, averred that the necessary passage has been provided.

Mr. A.S. Tewatia has further held out that an appeal has been filed by the appellant against the said order which is pending before the District Revenue Officer and proceedings have been deferred only on account of the pendency of the present appeal.

In such circumstances, he has prayed for withdrawal of the suit itself since necessary relief has been granted in the alternative by the Consolidation Authorities.

Resultantly, the prayer of the plaintiff-respondent no. 1-applicant is allowed. The original civil suit bearing no. 842 of 2014/Civil Suit No. 293-C is allowed to be withdrawn. Accordingly, all applications alongwith the main appeal have become infructuous and are disposed of as such. Needless to say that this Court has not observed on the merits of the case in any manner and the parties are entitled to contest the proceedings before the Consolidation Authorities.

27.11.2020
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(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No