



CR No. 6330 of 2025

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-6330-2025 (O&M)
Decided on : 10.09.2025

Raghubir Singh & Anr.

.....Petitioners

Versus

Suresh Kumar & Ors.

.....Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK GUPTA**Present:** Mr. Randhir Singh Manhas, Advocate,
for the petitioner.**DEEPAK GUPTA, J.**

The petitioners–plaintiffs in Civil Suit No.169 of 2019 (*Raghubir Singh & Anr. v. Suresh Kumar & Ors.*), pending before Ld. Civil Judge (Jr. Divn.), Pathankot, assail the order dated 19.08.2025 (*Annexure P-6*) rejecting their application under Order XXIII Rule 1 CPC to withdraw the suit with liberty to file a fresh one on the same cause of action.

2. The plaintiffs had filed the suit for possession and permanent injunction, alleging encroachment by the defendants. They sought withdrawal on the plea that the suit land had not been demarcated before filing the suit, which they considered a technical defect.

3. The Trial Court noted that an earlier application under Order XXVI Rule 9 CPC for demarcation had been dismissed, and a prior application for withdrawal on similar grounds had also been withdrawn. As the suit, instituted in 2019, had reached the stage of arguments after being contested for six years, permitting withdrawal with liberty to file a fresh suit would seriously prejudice the defendants.

4. Learned counsel for the petitioners argued that demarcation was essential to ascertain the extent of encroachment, and the absence



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thereof constituted a defect warranting withdrawal of suit with liberty to file afresh.

5. The contention is untenable. Although demarcation was indeed necessary, the plaintiffs chose to file the suit in 2019 without it, and their subsequent attempt to secure a Local Commissioner during trial failed. At the stage of arguments, the attempt to withdraw only reflects an effort to recommence litigation, thereby harassing the defendants.

6. The Trial Court rightly held that such liberty would prejudice the defendants. No illegality or perversity is found in the impugned order. Accordingly, the revision petition is dismissed.

10.09.2025

Jiten

**(DEEPAK GUPTA)
JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No