

PROCEEDINGS OF THE DAY

Day and Date	Friday and 09.08.2019
Complaint No.	1121/2019 Case Titled As Atul Malhotra Vs Ireo Grace Realtech Pvt. Ltd.
Complainant	Atul Malhotra
Represented through	Mohd. Faris Advocate for the complainant
Respondent	Ireo Grace Realtech Pvt. Ltd.
Respondent Represented	Shri Garvit Gupta Advocate for respondent
Last date of hearing	8.8.2019
Proceeding Recorded by	Naresh Kumari & S.L.Chanana

Proceedings

The complainant does not want to proceed with the complaint and seeks withdrawal of the same with permission to file afresh on the same cause of action. However, this plea is being opposed by the respondent by taking a plea that while filing the application for withdrawal, it is nowhere mentioned as to what is the technical defect compelling the complainant to withdraw the complaint. It is pleaded that there is no objection with regard to simpliciter withdrawal of the complaint but not with a rider. Reference in this regard has been made to the ratio of law in cases of **Satwant Singh versus Gurdev Singh and others, 2016 (2) PLR 185, Vikas B. Patharkar versus Aditya Associates and Ors. 2012 (1) C.P.R 212, Smt. Rubi Sood and another versus Major (Retd.) Shri Vijay Kumar Sood and others 2014 (85) R.C.R (Civil) 137 and Shri Ram Lubhaya versus Shri Kanshi Ram 1977 (2)**

RentLR 184, wherein it was observed that when the applicant does not disclose the technical defects while moving the application for withdrawal of the suit, the application filed by him merits dismissal.

2. Learned counsel for the complainant placed reliance on the ratio of law laid down in Anil Kumar Singh versus Vijay Pal Singh and Ors. Civil Appeal No.20007 of 2017 decided on November 30, 2017 by the Hon'ble Apex Court, New Delhi wherein the issue in question was discussed and wherein it was held that when the plaintiff does not ask for any leave to file a fresh suit on the same subject-matter, a mere withdrawal of the suit without asking for anything more can, therefore be always permitted. However, in the case in hand, the complainant is seeking permission to withdraw the complaint with permission to file afresh on the same cause of action and without disclosing any technical defect. So, in such a situation, he is permitted to withdraw the complaint with liberty to file afresh if the law of the land so permits. File be consigned to the registry.

(S.C.Goyal)
Adjudicating Officer,
09.08.2019