

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No. 1147 of 2016 (O&M)

Date of decision: 21.12.2017

Shyam Lal Mittal

...Appellant

Vs.

Jagjit Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Ms. Janya Sirohi, Advocate
for the appellants.

Mr. Sanjiv Gupta, Advocate
for the respondents.

RAJIV NARAIN RAINA, J. (ORAL)

The matter has been settled between the parties without the assistance of the Court and with the intervention of the family members. Prayer is made under Section 16 of the Court Fees Act, 1870 for refund of fee. Section 16 refers to Section 89 of the Code of Civil Procedure, 1908 which is the *magna carta* for alternative disputes settlement mechanisms, a salutary provision which deserves to be encouraged among the litigating public by invocation.

In the present case, the Court has not determined the dispute or adjudicated upon the issues. Therefore, an out-of-court settlement would fall within the purview of Section 16 of the Court Fee Act read with Section 89 of Code of Civil Procedure and there is judicial precedent in support of the proposition in Pradeep Sonawat Vs. Satish Prakash @ Satish Chandra 2015 AIR (Punjab) 130. Learned Single

Bench of this Court relied on earlier dicta of the other High Courts including Division Bench of the Karnataka High Court in Kamalamma and others Vs. Honnali Taluk Agricultural Produce Co-operative Marketing Society Ltd, Honnali and others 2009 (33) RCR (Civil) 110 to expand the canvas, despite a discordant note in Tarun Juneja and others Vs. Hukam Singh in CR No. 874 of 2009 (O&M) which has been noticed and taken forward liberally to hold that even when the compromise is made with the persuasion of the Court, even then court fee should be refunded as such a compromise does not involve adversarial decision-making process, one way or the other. In *Pradeep Sonawat* case (supra) the Court sounded:

16. *Going a step further, it is felt that compromise is with the persuasion of the Court or amongst the parties by themselves in terms of Section 89 CPC or otherwise, invocation of provision of Section 16 of the Act should be made in all cases so that settlements by way of alternative dispute resolution mechanism are encouraged.*

Accordingly, the appeal is disposed of as per compromise (Annexure A-1). The court fee affixed is ordered to be refunded to the party concerned.

[RAJIV NARAIN RAINA]
JUDGE

21.12.2017

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Whether speaking/reasoned: Yes

Whether Reportable: No