

**CM-8380-81-C-2017 in/and
RSA-5457-2014 (O&M)**

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

**CM-8380-81-C-2017 in/and
RSA-5457-2014 (O&M)
Date of Decision:- 27.09.2017**

Boota Singh and others

.....Appellants

Versus

Nirmal Bishnoi

.....Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Vikram Singh, Advocate,
for the appellants.

Mr. Sandeep Kumar Yadav, Advcoate
for the applicant-respondent.

RITU BAHRI, J. (Oral)

CM-8380-C-2017

The application is allowed, as prayed for.

Copy of affidavit/compromise dated 13.06.2011 (Annexure
A-1), is taken on record.

CM-8381-C-2017

Heard.

For the reasons mentioned in the application, the hearing of
main petition is preponed and is taken on today's board of this Court.

RSA-5457-2014

The present appeal has filed by appellants-defendants Boota Singh and others, against the judgment of reversal.

During the course of hearing on 04.09.2015, the following order was passed by a Co-ordinate Bench of this Court: -

“The second appeal is admitted on the following substantial question of law:-

Whether the lower appellate court was justified in reversing the well considered judgment of the trial court allowing the plaintiff only the benefit of return of advance on a finding that the plaintiff had not expressed his readiness and willingness to perform his part of the contract and his conduct showed that he was forfeiting his right of specific performance?

Interim stay of execution of the decree on condition that the defendants deposit the entire suit cost and 50% of advance which they have already received within a period of 6 weeks to the credit of the suit. On such deposit, the plaintiff is entitled to withdraw the suit cost and appeal cost and the 50% of the amount deposited shall also be permitted to be taken by the plaintiff. The issue of how the amount will be dealt with will abide by the direction given by the court while disposing of the second appeal finally. If the amounts detailed above are not deposited as directed, the stay granted shall stand vacated.”

By way of CM-8380-C-2017, learned counsel for the applicant-appellant has placed on record copy of affidavit/compromise (Annexure A-1).

Vide order dated 11.07.2017 of this Court, a report was sought from the trial Court with respect to the contents of the affidavit/compromise (Annexure A-1).

Pursuant to order dated 11.07.2017, a report dated 22.8.2017, has been sent by the learned Civil Judge (Senior Division), Sirsa to the effect that the statements of respondent-Nirmal Bishnoi (plaintiff in the civil suit) as well as Boota Singh, Heera Singh-self and being the General Power of Attorney of Harjit Kaur-petitioners (defendants in the civil suit) have been recorded. Both the parties have compromised the matter amongst themselves of their own free will and without any pressure.

Keeping in view the above-said facts, the present appeal stands disposed of in the above-terms and the parties are held bound by their respective statements.

September 27, 2017
naresh.k

(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No