

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.1599 of 2017 (O&M)
Date of Order: 25.01.2018

Jai Pal and another

..Petitioners

Versus

Punjab National Bank and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Tarun Dhingra, Advocate,
for the petitioners.

Mr. Amit Kumar Goyal, Advocate,
for respondent no.1-PNB.

Mr. Yadwinder Singh, Advocate, for
Mr. K.S.Dhaliwal, Advocate,
for respondent no.2.

ANIL KSHETARPAL, J (Oral)

Petitioners are two plaintiffs out of total three, who had filed a suit against the defendants including the Punjab National Bank. The suit was filed jointly by all the three brothers.

During the pendency of the suit, the matter was referred to the Lok Adalat, where a settlement took place. The case was remitted back to the Court. Before the Court, one of the plaintiff i.e. plaintiff no.3 along with the counsel engaged by all three of them, made a statement that they are withdrawing the suit. The order passed by the Court thereon is extracted as under:-

“Present: Plaintiff No.3 Suresh Pal with Shri Sanjay
Azad, Advocate.

File again taken up on the application moved
by plaintiffs. The plaintiff no.3 has made a statement

that he has compromised the matter with the defendants in Laok Adalat and therefore does not want to proceed further with the present suit and withdraws the same. In view of this, the present suit stands dismissed as withdrawn. File be consigned to record room after due compliance.”

Thereafter, plaintiffs no.1 and 2 filed an application for recall of the same on the ground that they had never authorized plaintiff no.3 to withdraw the suit on their behalf.

Learned trial court after examining various aspects of the case, dismissed the application vide order dated 03.12.2016, which is being impugned in the revision petition.

Learned counsel for the petitioners has vehemently argued that plaintiffs no.1 and 2 were not present when the suit was withdrawn. He has further submitted that plaintiffs no.1 and 2 did not authorize plaintiff no.3 to withdraw a suit. He has further submitted that there was no compromise between the parties in terms of Order 23 Rule 3 CPC. He has also referred to Section 20 of the Legal Services Authority Act, 1987 to contend that the compromise can only be under the signatures of all the parties.

I have considered the submission of learned counsel, however, this Court does not find any substance therein.

No doubt, the suit was filed by three brothers. However, they had engaged a common counsel, namely, Sh. Sanjay Azad, Advocate. When plaintiff no.3 withdrew the suit, Sh. Sanjay Azad, Advocate, was present in the Court. His presence is specifically recorded in the order. I have repeatedly asked the learned counsel for the petitioners that whether

any complaint has lodged against Sh. Sanjay Azad, Advocate or not, the answer to this question is no. Sh. Sanjay Azad, Advocate, was representing all the plaintiffs. Counsel as per the power of attorney has power to withdraw the suit apart from prosecution or defending the litigation.

In the present case, plaintiff no.3 was present. He is not coming forward to assert that he had not made the statement regarding withdrawal of the suit.

Argument of learned counsel that in a compromise all the parties are required to sign is just noticed and rejected because since the plaintiffs no.1 and 2 have not signed, therefore, there is no compromise. The present case is not a case of disposal of the suit on the basis of compromise. The suit has not been disposed of in terms of Order 23 Rule 3 of the Code of Civil Procedure. Plaintiffs have chosen to withdraw the suit in terms of Order 23 Rule 1 CPC.

It may be significant to note here that plaintiff no.3 along with his counsel had moved a specific application before the Court with a prayer that they may be permitted to withdraw the suit. The Court has allowed the same.

In these circumstances, this Court does not find any good ground to interfere with the impugned order passed by the learned trial Court, dated 03.12.2016.

The civil revision is dismissed.

January 25, 2018
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No