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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-404-2017 (O&M)

Date of decision : 22.03.2018

Nirupam Kumar

... Petitioner(s)

Versus

Anupam Kumar and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Vaibhav Sehgal, Advocate
for the petitioner.

Mr. Namit Gautam, Advocate
for respondent Nos.1 to 6.

AMIT RAWAL, J. (ORAL)

The petitioner-plaintiff is aggrieved of the impugned order dated 10.09.2015 (Annexure P-1) as well as 05.12.2016 (Annexure P2), whereby during the pendency of the suit, both the parties had suffered a statement that the matter has been compromised and suit may be disposed of in view of the compromise, but the Court below had ordered for withdrawal of the suit. An application for recalling of the order was also met with the same fate.

The factum of the compromise and disposal of the suit in view of the compromise has not been controverted by Mr. Gautam, counsel representing respondent Nos.1 to 6.

The statement of the parties are annexed as Annexures P-5 & Ex.P-6, whereby the parties had stated in the following manner:-

"Statement of Anupam Kumar aged 60 yrs s/o Late Om Parkash R/o Rajgarh, Sudarshan Kumar s/o Om Parkash as well as Attorney Minakshi Devi and Jiwan Bala D/o Om Parkash, Subhadra Devi W/o Om Parkash R/o Doraha Mandi

On SA

We have entered into a compromise with the plaintiff as per the compromise we admit the Will dated 20.08.1999 registered on 22.10.1999 as legal and valid. We have no objection if the suit of the plaintiff is decreed as per the registered Will dated 22.10.1999. The correct copy of the Will is Ex.CA. The correct copy of power of attorney is Ex.CB. We will not file any proceedings against the plaintiff with regard to the present suit.

Statement of Nirupam Kumar S/o Late Om Parkash R /o Mohalla Guru Nanak Pura, Doraha Mandi (plaintiff).

On SA

I have heard the statement of the defendants and the same is correct. I will withdraw the Criminal Writ Petition pending in Punjab and Haryana High Court dated 16.10.2015 filed by me against State of Punjab and Sudarshan Kumar and others. My suit be decreed as per compromise on the basis of Will dated 20.08.1999 registered on 22.10.1999. I will not file any proceedings against each other regarding the filing of the litigation between us."

Keeping in view the aforementioned facts, I am of the view that the impugned orders are not sustainable in the eyes of law. The Court below should have disposed of the suit in terms of the compromise instead of dismissing as withdrawn. Even if, the compromise was amongst few of the defendants, but the Court below could not have ordered for withdrawal of the suit *in toto* and continued with the same viz-a-viz the other defendants.

Be that as it may, the fact of the matter is that the impugned orders, under

challenge, are not sustainable and the same are hereby set aside. The matter is remitted to the trial Court to proceed in accordance with law.

Learned counsel for the parties as well as the parties are directed to appear before the trial Court on 30.04.2018.

Resultantly, the present revision petition stands disposed of.

22.03.2018
Yogesh Sharma

(AMIT RAWAL)
JUDGE

	✓
Whether speaking/reasoned	Yes/ No
	✓
Whether Reportable	Yes/ No