

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR 6425-2015 (O&M)
Date of decision: 27.04.2018

Arun Kumar (since deceased) through LRs

.....Petitioner(s)

versus

Nirmal Duggal and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldeep Singh

Present: Mr.I.P.S.Mangat, Advocate for
Ms.Jatinderjit Kaur, Advocate for the petitioners
Mr.Naveen Sharma, Advocate for
Mr.Vijay Lath, Advocate for respondent nos.1 to 5

1. *Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
2. *To be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

Kuldeep Singh, J. (Oral)

Impugned in the present revision petition is the order dated 26.5.2015 (Annexure P10) passed by learned Civil Judge (Senior Division), Jalandhar, vide which, application filed by the plaintiffs stating that they resile from the statement regarding compromise dated 29.7.2009 regarding sale of property (EX.C1) was allowed and the Court decided to proceed with the case and decide the same on merits directing the parties to adduce evidence.

Heard.

It comes out that the suit for declaration, rendition of accounts and permanent injunction was pending before learned Civil Judge (Senior Division), Jalandhar. Suit was filed on 18.8.2007. It comes out that parties entered into compromise dated 29.7.2009 regarding share in the property (Ex.C1). Certain shares were determined. Statements of the parties were recorded. However, case was adjourned for one or the other reason.

Thereafter, the present application was filed by the plaintiffs stating that condition in the compromise (Ex.C1) that whenever the defendants will sell the property only the applicant shall be entitled to receive his share is wrong and is not acceptable to them. It was further stated that wrong statement was made by the plaintiffs under the bona fide belief and plaintiffs wants to withdraw the said statement. In short, it means that the plaintiffs have resiled from the said compromise.

Now, the question would arise as to when a compromise arrived at between the parties and their statements are recorded but before a decree could be passed, one of the parties resiled from the statement, whether still, a compromise decree could be passed?

I am of the view that in such circumstances, when one of the parties states that they were mislead to give the statement, the compromise decree cannot be straightway passed. When the compromise alleged by one party and denied by other party on one or the other ground, the trial Court was required to frame the issue in this regard and decide the same along with the main case.

In these circumstances, present revision petition is disposed with directions to the trial Court to frame the issue regarding compromise and decide the same along with the main case after allowing the parties to lead evidence thereon.

Since the present petition has been disposed of, therefore, the pending CM, if any, also stands disposed of.

27.04.2018

gk

Whether speaking/ reasoned:

Whether Reportable:

(Kuldip Singh)

Judge

Yes

No