

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

CR No.8213 of 2017 (O&M)

Date of decision : February 14, 2018

Krishna Devi and others

..... Petitioners

Versus

Deepinder Singh

..... Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Ashdeep Singh, Advocate for
Mr. Varun Sharma, Advocate for the petitioners.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (ORAL)

CM-25121-CII-2017

Application is allowed as prayed for.

CM-2949-CII-2018

Application is allowed as prayed for.

Annexure P-4 is taken on record.

Main Case

Heard.

The defendants-present petitioner have filed a civil appeal against the judgment and decree dated 12.02.2013 passed by learned Addl. Civil Judge (Sr. Divn.), Mansa, vide which the suit filed by the respondent-plaintiff was decreed.

During the pendency of the appeal, learned counsel for the appellants informed the lower appellate Court on 09.11.2015 that the appellants have effected a compromise with the opposite party and he withdraws the appeal.

Accordingly, the appeal was ordered to be dismissed as withdrawn on 09.11.2015. Thereafter, the present application has been filed on 23.12.2016, stating that the respondent is not complying with the compromise, therefore, the appellants wants to pursue the appeal. The lower appellate court has taken the view that once the appeal is withdrawn unconditionally, it cannot be restored.

I fully agree with the view taken by the lower appellate Court. Learned counsel for the appellant has merely informed the court that he withdraws the appeal and he stated the reason of the withdrawal of the appeal as compromise was effected with the opposite party. No agreement was brought on record. No compromise was made part of the order passed by the lower appellate Court. The court was not informed about the nature of the compromise. It was the risk of the appellants to withdraw the appeal without making the compromise a part of the order of the lower appellate Court. Since the appeal was unconditionally withdrawn, it cannot be restored. However, the present petitioner is always at liberty to enforce the compromise, in accordance with law, if so permitted.

As such, the present revision petition is dismissed.

(KULDIP SINGH)
JUDGE

February 14, 2018

sarita

Whether speaking / reasoned Yes

Whether Reportable: No