

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA-2693-2005

Date of decision:- 21.02.2018

Jagan Nath Tehri

.....Appellant

Versus

Manoj Kumar and others

.....Respondents

CORAM : HON'BLE MR.JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Kunal Mulwani, Advocate, for the appellant.

Mr. Arun Bansal, Advocate, for respondent No.1.

Mr. Abhimanyu Kalsy, Advocate
for respondent No.2 (Legal-Aid counsel).

Both the parties are present in Court today
along with their respective counsel.

MAHABIR SINGH SINDHU, J. (ORAL)

Present Regular Second Appeal has been filed by the defendant No.3-appellant against the impugned judgment and decree dated 26.02.2005, passed by learned Additional District Judge, Chandigarh vide which his appeal, against the judgment and decree dated 24.08.2004, rendered by learned Civil Judge (Junior Division), Chandigarh, has been dismissed.

2. Brief facts of the case are that the plaintiffs-respondents filed a civil suit for permanent injunction restraining the defendant-appellant from dispossessing them forcibly regarding the first and second floor of

House No.3278, Sector 46-C, Chandigarh, hereinafer referred as “property in dispute”.

3. Upon notice, defendant-appellant filed his written statement denying the claim of the plaintiffs-respondents and he also filed his counter claim to secure the possession of the property in dispute being owners thereof.

4. During the pendency of the civil suit, plaintiffs-respondents moved an application for withdrawal of the suit, which was accepted and ultimately the civil suit filed by the plaintiffs-respondents was ordered to be dismissed as withdrawn on 11.06.2002 by learned trial Court. However, the defendant-appellant pursued his counter claim, but the same was dismissed by learned Civil Judge (Jr. Division), Chandigarh, vide judgment and decree dated 24.08.2004.

5. Aggrieved against the judgment and decree passed by learned trial Court, the defendant-appellant preferred an appeal, but the same was also dismissed by the learned Additional District Judge, Chandigarh while passing the impugned judgment and decree dated 26.02.2005 and that led to filing of the present Regular Second Appeal.

6. During the pendency of this Appeal, the parties have arrived at compromise and got recorded their separate statements before this Court on 15.11.2017, which read as under: -

“Joint statement of Manoj Kumar Tehri s/o Sh. Jagan Nath Tehri and Smt. Rajni Tehri w/o Sh. Manoj Kumar Tehri R/o 3278, Sector 46, Chandigarh on SA.

We the respondents No.1 and 2 have settled the matter with the Appellant Sh. Jagan Nath Tehri and accordingly agreed that we will receive a sum of Rs.65,00,000/- (Rupees sixty five lacs only)

towards the full and final settlement in respect of all the disputes amongst the parties by way of demand draft on or before 19.01.2018. We, Manoj Kumar Tehri son of Sh. Jagan Nath Tehri and Rajni Tehri wife of Shri Manoj Kumar Tehri have agreed that we will hand over the vacant physical possession of the area under our possession within the next week of receipt of the said draft. We shall not lay any other right on the property in question.

Sd/-

Manoj Kumar Tehri (Respondent No.1)

Sd/-

Rajni Tehri (Respondent No.2)

Statement of Jagan Nath Tehri son of Shri Ram Lal Tehri R/o 3278, Sector 46, Chandigarh on SA.

I the appellant has settled the matter with the respondents 1 and 2 i.e. Manoj Kumar Tehri son of Shri Jagan Nath Tehri and Rajni w/o Shri Manoj Kumar Tehri and accordingly hereby agree that I will pay a sum of Rs.65,00,000/- (Rupees sixty five lacs only) towards the full and final settlement in respect of all the disputes amongst the parties by way of demand draft on or before 19.01.2018. The respondents No.1 and 2 i.e. Manoj Kumar Tehri son of Sh. Jagan Nath Tehri and Rajni Tehri wife of Shri Manoj Kumar Tehri have agreed that they will hand over the vacant physical possession of the area under the possession within the next week of receipt of the said draft. Respondents No.1 and 2 will have no right whatsoever in the property in question.

Sd/-

Jagan Nath Tehri (Appellant)

Sd/-

Simmi Sharma wife of Mahesh Sharma (Respondent No.3)”

7. In view of the above statements made by both the parties, this Court passed an order on 15.11.2017 in the following terms: -

“ Mr. Arun Bansal & Mr. Abhimanyu Kalsy, Advocates, appeared and filed Vakalatnamas on behalf of respondent No.1 and 2 respectively.

Today, learned counsels for both the parties are *ad idem* that matter has been amicably settled and they do not wish to address any arguments on merits.

Learned counsel for the appellant on instructions from Mr. Jagan Nath-sole appellant states that both the parties have mutually decided that the price of the property in dispute has been fixed as ₹1.30 crore (Rupees one crore thirty lacs) as market price. Either of the parties is at liberty to give half of the amount and can retain the entire house. To make the things more clear, it is the choice of the appellant either to give ₹65,00,000/- (Rupees sixty five lacs) to respondents No.1 and 2 and to retain the house or to accept ₹65,00,000/- (Rupees sixty five lacs) from respondents No.1 and 2 and to hand over the entire house to them.

After due deliberations, Mr. Bansal as well as Mr. Abhimanyu Kalsy, Advocates on instructions from respondents No.1 and 2 have accepted the offer of the appellant and agreed that they will accept ₹65,00,000/- (Rupees sixty five lacs) and they will hand over the vacant possession of the portion of the house occupied by them to the appellant.

It has also been mutually agreed that demand draft for an amount of ₹65,00,000/- (Rupees sixty five lacs) shall be produced on the next date of hearing in the Court drawn in favour of respondent No.1-Manoj Kumar Tehri and to which respondent No.2-Rajni has no objection.

Both the parties have got recorded their statements separately as agreed to in the Court. It has also been agreed that after handing over the draft by the appellant on the date of hearing, the premises shall be vacated by respondents No.1 and 2 within one week and the keys shall be handed over to the appellant in the Court itself. Thereafter, the respondents No.1 and 2 will have no claim, right, title or interest regarding the property in dispute.

If either of the party back out from their stand, the necessary legal consequences shall follow.

On joint request, adjourned to 19.01.2018.”

8. In pursuance of the order dated 15.11.2017, an amount of ₹65,00,000/- (Rupees Sixty Five Lacs Only) in the form of demand draft No.949627 dated 18.01.2018 was handed over to respondent No.1 with consent of respondent No.2 and thereafter keys of the house in dispute as well as vacant possession of property in dispute has also been handed over to the defendant-appellant and the same is duly acknowledged by him.

9. As on today, everything has been settled between the parties and no claim is left against each other and thus, both the parties shall be bound by their statements referred above.

10. In view of the stand taken by the parties, the present Regular Second Appeal is allowed in terms of statements dated 15.11.2017 made by both the parties and impugned judgments and decrees passed by both the Courts below are set aside. Resultantly, counter-claim of the defendant-appellant is decreed as prayed for and the statements dated 15.11.2017 made by both the parties shall form the part of decree and the decree sheet be prepared accordingly.

11. The present Regular Second Appeal stands disposed off in the above terms.

12. No order as to costs.

(MAHABIR SINGH SINDHU)
JUDGE

February 21, 2018
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Whether reportable?	Yes
Whether reasoned/speaking?	Yes